

1 A F T E R N O O N S E S S I O N

2 (Whereupon the proceedings were
3 hereinafter stenographically
4 reported by Carla Boehl.)

5 EXAMINER WOODS: Back on the record.

6 J A M E S R. S M A L L W O O D

7 CROSS EXAMINATION (Cont.'d)

8 BY MR. BOWEN:

9 Q. Okay, Mr. Smallwood, we left off before
10 lunch counting tie cables, if I can use that term.
11 Could you pick up Ms. Schlackman's testimony, direct
12 testimony, Attachment 2, and look at the configuration
13 that she shows on there for the case where the ILEC,
14 meaning Ameritech, owns the splitter? Do you have
15 that?

16 A. Yes.

17 Q. Okay. Now, first of all, do I understand
18 your testimony correctly to be saying that you are
19 recognizing -- let me just ask you, how many tie cable
20 pairs are you recognizing as being relevant in the
21 Ameritech-owned splitter configuration?

22 MR. BINNIG: I will object to the vagueness

1 of the question. I don't know what relevant means.

2 MR. BOWEN: I will rephrase it.

3 Q. Do you recall our discussion
4 before lunch where you said you studied the cost of
5 two tie cables for a CLEC-owned splitter situation,
6 but that got you from the MDF to the IDF?

7 A. That's correct.

8 Q. How many tie cables are you studying in
9 the case of Attachment 2 which depicts when Ameritech
10 owns the splitter?

11 A. Again, in this configuration that's
12 depicted here, the cost study that I am representing,
13 the HFPL cost study, has a recurring cost for two tie
14 cable pairs between the MDR and the IDF. And just to
15 be clear for the record and -- the depiction here is
16 such that we show each line, cross connect line, going
17 on in essence what is a different cable with a
18 different block. But it could be the case that you
19 would have a cable terminated to a block and that
20 serves a hundred pairs, so you wouldn't necessarily
21 have distinct cables. But there is two tie cable
22 pairs running between those frames that would be

1 utilized to provision the service.

2 Q. Between the MDF and the IDF, you mean?

3 A. That's correct. That's what's captured
4 in the cost study.

5 Q. And then whether or not you have studied
6 the cost of the additional signal paths, can you tell
7 me how many more tie cables you need to get from the
8 IDF to the CLEC collocation arrangement.

9 A. When the splitter is installed, there are
10 tie cables that are required to carry the circuits
11 from the splitter rack to the IDF, and those are
12 depicted as the lines labeled Data OE and CP on the
13 left, immediately to the left of the intermediate
14 distributing frame or IDF. And so those three tie
15 cables would be installed at the time the splitter is
16 installed and would carry circuits from the splitter
17 to the frame.

18 Q. And in this configuration do you
19 recognize the costs of those three tie cable pairs as
20 being relevant to your definition of line sharing?

21 A. The cost for those tie cables when we
22 install it, as I think I stated before lunch, would be

1 when we develop the cost -- when we develop the
2 recurring costs for installing a piece of equipment,
3 we start out with the material price from the vendor.
4 Then we apply a factor to get the in-place cost that
5 captures the labor and miscellaneous materials that go
6 into installing that equipment. And that factor would
7 capture these tie cable costs in this case.

8 Q. Wait a minute. So in your cost analysis
9 you don't study these as tie cables; you study them as
10 some kind of factor applied to investment cost for the
11 splitter; is that your testimony?

12 A. When we install a piece of equipment --

13 Q. Well, I have a specific question pending.
14 Are you recognizing the tie cable costs as a factor
15 applied to the investment cost of an Ameritech-owned
16 splitter or not?

17 A. The miscellaneous materials that go into
18 installing a piece of equipment would be captured in
19 that factor, yes.

20 Q. Are tie cables miscellaneous equipment?

21 A. It's part of the equipment that's
22 required to install that.

1 Q. But are you in effect studying the costs
2 of three pairs as you just described them on this
3 drawing, one you call Data, one you call OE, and one
4 you call CP, running from the Ameritech splitter to
5 the IDF? Is that the physical thing you are looking
6 at?

7 A. There is the tie cables associated with
8 that, there is the labor associated with the
9 installation, there is shipping and handling
10 associated with the installation. I think if I can
11 refer you to my testimony, at the second to the last
12 page, the question in my copy starts on the third page
13 in from the end which reads, "Both Ms. Murray and Mr.
14 Riolo provide several criticisms of Ameritech Illinois
15 recurring and non-recurring cost studies for line
16 sharing. How do you respond?" And in the second
17 paragraph of the answer I describe the in-plant
18 factors that are developed for hardware and equipment.
19 And as it states there, that factor is a relationship
20 between total installed costs and material investment
21 costs.

22 So when you buy a splitter, you buy the

1 box and you buy the cards; there is other costs that
2 go into making that functional. It's just a box and
3 cards. It has to have cables to hook it up, it has to
4 have a rack to be mounted in. And the methodology
5 that Ameritech Illinois has used as long as I am aware
6 of is to capture those costs by capitalizing them
7 through an in-place factor, an in-plant factor.

8 Q. So these are special tie cables that only
9 are used with the splitters you are installing then,
10 some kind of special, unique tie cable?

11 A. I don't believe that's what I said, no.

12 Q. They are not unique?

13 A. I'm saying that the costs are captured in
14 a different way.

15 Q. We are talking about the cables you are
16 studying, Mr. Smallwood. Is there something special
17 about these cables that they aren't usual tie cable
18 material?

19 A. We had this discussion, I think, before
20 the break, and I told you that as far as I know there
21 is no difference. From a technical perspective you
22 could ask Ms. Schlackman. I don't know that there is

1 any difference between those cables, other than they
2 serve a different purpose.

3 Q. Okay. So if I wanted to count tie cables
4 in this configuration on Attachment 2, whether or not
5 you are recognizing the costs as a tie cable cost as
6 you use that term or as a capitalized adder to an
7 investment cost of a splitter, there are five tie
8 cable pairs we are looking at here, right?

9 A. Yes.

10 Q. Is there one more then to get from the
11 splitter over to the CLEC, one more tie cable in this
12 configuration?

13 A. There is the CLEC's collocation cable
14 running from the DSLAM to the IDF which, as you
15 referred to earlier, is the big fat cable.

16 Q. Okay. And you use that to get the
17 signal, the data signal, from the IDF over to the
18 DSLAM in the CLEC's collocation arrangement, right?

19 A. That's correct, yes.

20 Q. So the total number of big fat cable
21 pairs, if I can use that term, is six in this
22 configuration, right?

1 A. Yes, that's correct.

2 Q. All right. Now, what if you don't have
3 an IDF in the configuration where Ameritech owns the
4 splitter? How many tie cable pairs?

5 A. Again, you would eliminate the two
6 between the frame, so you would be left with six less
7 the two four.

8 Q. Okay. And what if you have the splitter
9 that Ameritech owns assumed to be placed on the MDF
10 itself, from a costing standpoint how many tie cable
11 pairs are involved there in total? Is it one?

12 A. Well, from a technical standpoint,
13 irrespective of costing, if you were to assume that
14 you were going to mount the splitter on the frame,
15 then there are no tie cables associated with that.

16 Q. Well, you have to get the signal from the
17 MDF over to the CLEC's, right?

18 A. Right. Well, if you were to assume for
19 your purposes that you were going to mount it on the
20 MDF, which is not standard practice, you would have to
21 have a tie cable to carry the data signal back.

22 Q. So it would be one tie cable in total in

1 my definition?

2 A. The collocation cable in your definition,
3 yes.

4 Q. All right. And if you were asked to
5 study the cost of that, it wouldn't be some kind of
6 special tie cable; it would just be a regular old tie
7 cable, right?

8 A. That tie cable again would be part of a
9 collocation arrangement.

10 Q. Just a regular old collocation tie cable,
11 right?

12 A. Yes, as far as I know.

13 Q. I'm sorry, I didn't hear you.

14 A. Yes, as far as I know.

15 Q. Let's shift gears now, if you would, to
16 the next part of your testimony talking about the
17 monthly recurring Operation Support System or OSS cost
18 development. Can you turn to, I guess it would be,
19 your page 5? Do you have that?

20 A. Yes.

21 Q. Okay. Now, first of all, can you tell me
22 where in your attachments to your prefiled testimony I

1 see the cost support for the number that you result,
2 that you get as a result for this? Is it in JRS-2,
3 for example?

4 A. For the OSS modification?

5 Q. Yes.

6 A. No.

7 Q. Where is it?

8 A. That would be --

9 Q. In your prefiled, I mean.

10 A. It's not in my prefiled. That's part of
11 the recurring cost study, and the only -- JRS-2 is the
12 non-recurring cost study.

13 Q. Why didn't you attach any cost support
14 for your recommended costs for monthly recurring OSS
15 costs?

16 MR. BINNIG: I will object to that as being
17 asked and answered this morning.

18 EXAMINER WOODS: Is it the same answer?
19 Because it's already been approved?

20 THE WITNESS: The answer, I believe, Your
21 Honor, was that it was filed as a part of the cost
22 support for the tariff.

1 MR. BOWEN:

2 Q. Okay. Am I correct that the Commission
3 in effect has never reviewed, let alone approved, this
4 particular cost?

5 A. I don't believe that the Commission has
6 taken it up yet.

7 Q. And so it is found now in which exhibit
8 that you supplied today, the support for that number,
9 I mean?

10 A. The development of that cost is in
11 Exhibit 4.2.

12 Q. And can you point me to a particular tab
13 or page there?

14 A. Tab 5, Tabs 5.2 and 5.2.1 are where those
15 costs are calculated.

16 Q. Did you say that you wanted to apply the
17 shared and common cost factor to this or not?

18 A. That's in the rate development but, yes,
19 it has been applied.

20 Q. If you turn with me to Rhythms Cross
21 Exhibit Smallwood 1 which was your response to Rhythms
22 Data Request 3?

1 A. Okay.

2 Q. Do you have that?

3 A. Yes.

4 Q. We have discussed the second portion of
5 the second study attached there. Could you turn back
6 to that, please? And am I correct that the same
7 number, the same dollar value, that you show on Tab
8 5.2 is also found in that Cross Exhibit Smallwood 2?

9 A. That is correct.

10 Q. So you haven't made any changes to that,
11 right?

12 A. No.

13 MR. BINNIG: So the record is clear, you said
14 Cross Exhibit Smallwood 2?

15 MR. BOWEN: I'm sorry, one. Thank you. And
16 your answers are the same.

17 THE WITNESS: Yes.

18 MR. BOWEN:

19 Q. All right. I want to talk to you about
20 your approach you used in estimating your particular
21 result here, Mr. Smallwood. And let's look at Tab 5.2
22 of Ameritech Exhibit 4.2, if we could?

1 A. Okay.

2 Q. Now, you have got -- first of all, you
3 have got a total cost number which I won't put in the
4 record that's referred to as Telecordia Software/OSS
5 Upgrade Cost, correct?

6 A. That's correct.

7 Q. And the source given is Product
8 Management?

9 A. Yes.

10 Q. And then there is a large number that
11 follows that in the amount line?

12 A. Yes.

13 Q. Do you have any additional supporting
14 materials in your showing that shows where that came
15 from or how Product Management developed that number?

16 A. I believe there was some supporting
17 documentation for that number submitted in response to
18 a data request.

19 Q. I am asking about your affirmative
20 showing in this case.

21 A. It's not a part of my cost study, no.

22 Q. Now, what about the line 2 entry, the

1 total lines in service? Am I correct that that's a
2 number that's pulled from Tab 5.2.1, the next
3 following page?

4 A. That's correct.

5 Q. And what is this? Is this a forecast by
6 somebody of the monthly take rates of line sharing?

7 A. Yes.

8 Q. And is this -- I see 1 through 36 on that
9 Tab 5.2.1; do you see that?

10 A. Yes.

11 Q. Are the numbers here simply -- they are
12 not cumulative; they are each month individual
13 estimated total take rate; is that right?

14 A. That's correct.

15 Q. Do you have anywhere in your affirmative
16 showing here, which means not in discovery responses,
17 any additional support for these numbers?

18 A. No. The cost study simply contains the
19 monthly forecast amount.

20 Q. And can you describe for the record what
21 you intend to be occurring in line 3?

22 A. It's a factor developed to get a present

1 value. Essentially, what we did was we took a net
2 present value of the forecasted lines to get a
3 relative current amount.

4 Q. I understand that part. But what is P/F
5 36 months at 11.52 COM mean?

6 A. It's a number that's generated from --
7 the source reference is to time value of money. It's
8 a macro in Excel, and you can plug in a cost of money
9 in a time period and get a factor by which you can
10 present value a number.

11 Q. Okay. And the COM is Cost of Money; is
12 that right?

13 A. Yes.

14 Q. One question I didn't ask you about,
15 about the splitter investment number that you use.
16 Remember that you testified that you roll up, what I
17 would call, tie cables as materials into a total
18 investment installed cost of the splitter?

19 A. Yes.

20 Q. Do you also -- does the factor you use to
21 do that also include HVAC and power assumptions?

22 A. The cost development for the in-place

1 factor would calculate power costs as a component of
2 the in-place factor. It's generally applied to
3 circuit equipment.

4 Q. And is the same true for -- you
5 understand HVAC to be heating, ventilating, and air
6 conditioning equipment?

7 A. HVAC. In terms of the development of
8 that, I can't -- I mean, I would have to go back and
9 look at all of the workpapers that support that. I
10 don't have them here with me. But there would be -- I
11 would think that that would be a miscellaneous cost
12 that would be included in there as a part of the
13 development. Could be.

14 Q. Normally, circuit equipment is going to
15 require HVAC, right?

16 A. Yes.

17 Q. I thought it was the case that splitters
18 weren't powered equipment; isn't that right?

19 A. That's true; they are a passive device.

20 Q. Now, let's come back to your most recent
21 chart of task times for the cross connect or the
22 jumper effort which I think you will find back in Tab

1 8.2.0 of Ameritech Exhibit Number 4.1.

2 A. Okay, I'm there.

3 Q. I will ask you some more detailed
4 questions on the closed record, but I want to ask you
5 some general questions now. You have on here a work
6 effort you recognize as a cost object of disconnect
7 cross wire. Do you see that?

8 A. Yes.

9 Q. Now, is that taking an existing voice
10 service and disconnecting the existing jumper between
11 the vertical and horizontal side of the MDF?

12 A. Yes.

13 Q. Now, are you familiar with the manner in
14 which Ameritech Illinois performs its non-recurring
15 cost studies for retail services and the basis in
16 which non-recurring charges are set for those efforts?

17 A. Generally familiar, yes.

18 Q. So take a retail customer with the voice
19 service. Am I correct that the non-recurring charge
20 that Ameritech Illinois imposes for local service
21 includes both the jumper job required to connect and
22 the jumper job required to disconnect that service

1 when the customer eventually leaves?

2 A. That would --

3 MR. BINNIG: Let me object to the form of the
4 question. I think it's vague in that he hasn't
5 specified what charges he is talking about.

6 MR. BOWEN: I think the witness was about to
7 answer the question, Your Honor, but I can try and
8 re-specify it, if you would like me to.

9 EXAMINER WOODS: See what kind of answer we
10 get.

11 MR. BOWEN: Isn't that right, Mr. Smallwood?

12 THE WITNESS: Could you repeat it?

13 EXAMINER WOODS: I think he said he wants you
14 to repeat it.

15 MR. BOWEN:

16 Q. Am I correct that on the retail side the
17 non-recurring cost of the initial jumper install on
18 the MDF and the non-recurring cost of the eventual
19 disconnect of that jumper are both captured in the
20 non-recurring charge for retail service?

21 A. That may be the case. I mean, I would
22 have to go back and look at a cost study to insure

1 that, I mean, to agree one hundred percent. It's been
2 awhile since I have looked at the retail side.

3 Q. So you don't know for sure?

4 A. Not off the top of my head.

5 Q. Do you know whether or not that's the
6 general practice of retail non-recurring cost studies
7 and charges in Ameritech?

8 A. Oftentimes that would be the case, yes.

9 Q. I take it you will agree that it wouldn't
10 be appropriate from a cost analyst perspective to
11 capture the same cost twice?

12 A. No.

13 Q. Let's assume, if you would with me, that
14 in fact the non-recurring charges for retail voice
15 service in fact are designed to recover both the
16 initial jumper job to bring up the service and the
17 disconnect jumper job when the customer leaves retail
18 service; can you assume that with me?

19 A. Sure.

20 Q. It's also possible, isn't it, that when
21 somebody decides to disconnect a line-shared service
22 because, say, they are moving, they will disconnect

1 both voice and data at the same time.

2 A. I mean, that scenario is conceivable.

3 Q. In other words, when you move from
4 Chicago to New York, you won't just disconnect one of
5 your services, you will disconnect both of your line
6 sharing, right, because you are moving?

7 A. Correct. I mean, that would generally be
8 the case, I think.

9 Q. It wasn't a trick question.

10 A. Yeah.

11 Q. All right. I need to understand then, if
12 you assume with me both those assumptions, that is
13 that the retail rate covers the disconnect of the
14 jumper and that somebody is moving, disconnecting both
15 the line-shared service and the voice, line-shared
16 data service and the underlying voice service, why is
17 it double accounting to capture a disconnect cross
18 wire work effort as you have here in your analysis?

19 A. Well, again I would have to look at the
20 full cost development of what you are referring to, to
21 insure that in fact the disconnect of the voice
22 service includes this particular line item for a

1 retail customer.

2 Q. I ask you to assume that, though, with
3 me.

4 A. You asked me to assume that they do both
5 disconnects at the same time and that the disconnect
6 is a part of the retail connect fee.

7 Q. Yes.

8 A. But, again, you are asking me to go a
9 step further and assume that that retail disconnect
10 fee has this work activity, this particular line item
11 in there. So -- because it's broader than that, could
12 conceivably in my mind be much broader than that. You
13 have cross connects out in the field that could be
14 part of a disconnect. So if we were to assume -- if
15 you are asking me to go that other step and make that
16 assumption, then, you know, subject to check and look
17 at it, this one particular work step out of that
18 retail recurring rate or non-recurring rate for
19 disconnect, if they disconnected at the same time, one
20 particular step could conceivably be double
21 accounting.

22 Q. Okay. And just so we are clear, what we

1 are talking about here on this page is central office
2 jumper work, not field jumper work, right?

3 A. That's correct.

4 Q. And whatever happens in the field, in my
5 example of asking you to assume the disconnect of the
6 jumper, you understood me to mean a central office
7 jumper in that example, right?

8 A. Yes. The point I was trying to make is
9 is that, if I were to assume that disconnect was a
10 part of the retail connect fee, then you have to --
11 there could be several work steps in that disconnect
12 component for that. So what we are looking at, if I
13 go a step further and assume that this particular
14 disconnection of the cross wire is in that
15 non-recurring element on the retail side, it would
16 only be that one particular element that could show up
17 in both places, not the entire disconnect of a retail
18 service.

19 Q. I understand that, I understand that. We
20 are on the same page. Now, if you will compare with
21 me the numbers that you see on Tab 8.2.0, that is the
22 minutes estimates there, with the numbers that you see

1 on Rhythms Cross Exhibit Smallwood 2 which was your
2 response to Covad Data Request Number 26?

3 A. Right.

4 Q. Is it fair to say that, where there is a
5 change, it's always a downward change?

6 A. Yes.

7 Q. And if you look with me at the Footnote
8 Number 1 on Tab 8.2.0, I take it that this footnote is
9 not confidential; is that right?

10 A. Actually --

11 MR. BINNIG: They don't look confidential. I
12 will let the witness tell us if they are.

13 THE WITNESS: There is one number that the
14 revision was upward.

15 MR. BOWEN:

16 Q. Why don't you go ahead and tell me which
17 one that was, which line item?

18 A. That would be the last line on the first
19 page of Data Request 26 which is entitled "Circuit
20 Completion and Order Closeout." And it would be the
21 last line of the install part at the top.

22 Q. Okay, I am with you.

1 A. Okay, but other than that, yes.

2 Q. Now, if you look at Footnote 1 to Tab
3 8.2.0 in Exhibit 4.1, I am going to read that for the
4 record. It says, "Installation times have been
5 validated by the initial line-sharing orders received
6 during the SBC trial with the CLECs (5/30/00)," right?

7 A. That's correct.

8 Q. Now, when you say validated -- strike
9 that. The numbers you see on Cross Exhibit Smallwood
10 2 are all round minutes or half minutes, right, in one
11 case?

12 A. Yes.

13 Q. And the numbers that you see on Tab 8.2.0
14 are all -- many of them are in tenths of minutes,
15 right?

16 A. Yes.

17 Q. So it sounds to me like somebody is
18 looking at some actual data instead of a SME estimate;
19 is that a fair conclusion to draw?

20 A. When I spoke to Mr. Weinart about this,
21 he described a process that they went through. And
22 this is a new service, obviously, so there isn't a

1 historical perspective to go from for a subject matter
2 expert. And when he provided these initial estimates,
3 he thought that that would be the forward-looking
4 estimate. And, in fact, according to Mr. Weinart,
5 when they first started provisioning line sharing, the
6 times were significantly higher than what he had
7 estimated. And so he was sort of trying to anticipate
8 process improvements as you would do in a
9 forward-looking study in these initial estimates.

10 And as a result of the line-sharing trial
11 which he's been a part of, they were looking at how
12 they did their work and implemented some process
13 improvements that drove them beyond what he thought
14 they could initially obtain, and he wanted to reflect
15 that here to make sure that we captured the actual
16 costs. So we went back and revised it.

17 And I think that, you know, based on my
18 conversation with Mr. Weinart, my recollection of it
19 was that he was going out to different areas that he
20 visited and observing the work steps and getting some,
21 in essence, what some people would like to call time
22 and motion studies, but he was going out and watching

1 these people, paying attention to his watch, and
2 watching the work activity, once they implemented the
3 process improvements that they identified. So that's
4 what's meant by that footnote.

5 Q. Okay. Now, you understand a time and
6 motion study to be something very particular; do you
7 not?

8 A. I do, yes.

9 Q. How would you describe a time and motion
10 study?

11 A. Well, generally a time and motion study
12 in my mind is -- it all depends on the level of
13 formality, I guess. I think of a very formal time and
14 motion study as an independent third-party being hired
15 in to identify a series of work steps in a process
16 flow and going out with the clipboard and a stopwatch
17 and timing them. I also understand in my mind a time
18 and motion study to be particularly effective and
19 applicable in situations where the work steps do not
20 vary significantly. If your sample is large enough,
21 you can eliminate some of the bias and the
22 variability.

1 But, for example, if you are in a
2 manufacturing setting and, you know, there is a
3 production line rolling by. And every time a work
4 piece comes in front of a guy, he's got to push a
5 button to stamp some metal or something, so how fast
6 is the line moving, how quickly does he respond to
7 push the button, and you can clock that over and over
8 again. Time and motion studies, it's my understanding
9 that they are less effective when you have variety in
10 work steps, where it's not as rote and routine. But,
11 generally speaking, a time and motion study is someone
12 going out and stopwatching with a stopwatch and a
13 clipboard to record times.

14 Q. And you mentioned sample size, I take it
15 one of the components of a valid time and motion study
16 is a large enough sample to be valid, given the data?

17 A. Well, from a statistical perspective, of
18 course, you have to have sufficient sample size.

19 Q. So you wouldn't say a sample size of one
20 would be enough for a real time and motion study,
21 right?

22 A. No, not from a statistical perspective.

1 Q. You said the actual answer in part was, I
2 think if I recall it right, was some would call it a
3 time and motion study but you wouldn't call it that,
4 would you, what Mr. Weinart did?

5 A. I don't know how many -- in our
6 conversation he didn't go into extreme detail about
7 how formal he was in documenting it. We were playing
8 phone tag back and forth for a few days, so I --

9 Q. Did he ask -- I'm sorry, go ahead.

10 A. He went out and was looking at these
11 processes and improvements and what times that he
12 thought they could achieve, and based on the
13 reductions that he had achieved on a forward-looking
14 basis he gave me these time estimates.

15 Q. He didn't tell you that he used a
16 stopwatch, did he?

17 A. No.

18 Q. He didn't tell you what his sample size
19 was, did he?

20 A. No. I haven't portrayed this as a time
21 and motion study, though.

22 Q. Okay. Well, do you know -- the reference

1 here to the footnote is the initial line-sharing order
2 received during the trial. Did I read that right,
3 Footnote 1?

4 A. Yes.

5 Q. So do you know if any orders were
6 processed during the initial line-sharing trial in
7 Illinois?

8 A. No, I don't.

9 Q. Do you know how many offices were
10 involved? Was it one? Wasn't it one office involved
11 in this trial?

12 A. I don't know. That doesn't seem to
13 comport with what I have heard in conversation.

14 Q. Does two sound right?

15 A. I don't recall.

16 Q. Well, do you know how many orders were
17 processed in whatever numbers of offices were involved
18 in the trial?

19 A. No.

20 Q. And these would have been the very first
21 installs of jumpers, right, in the trial?

22 A. It would have been as of what he had

1 observed through the month of May. I mean, I think
2 the important thing to keep in mind is that what we
3 have tried to do is go out and -- you know, we are in
4 the process of implementing a completely new service.
5 Again, which technician is it -- a technician like
6 Mr. Weinart or a central office engineer by
7 Mr. Weinart is informed by 25, 30 years of experience,
8 whatever he has, but he doesn't have any experience
9 with this particular service. And it's his
10 responsibility to provide subject matter expert inputs
11 for these cost studies. And so in order to start the
12 development back in February, we had to get some
13 estimates. And that's what he gave us, based on what
14 he thought on a forward-looking basis our technicians
15 would be able to achieve. The subject matter expert
16 then went back and tried to further refine his
17 estimates by being informed with what they had
18 experienced in the real world in provisioning this. I
19 think the adjustment is wholly appropriate to make.

20 Q. Well, isn't what really is happening here
21 is that your SME with 25 years of experience was wrong
22 on the high side in his estimations in every case but

1 one?

2 A. There were some adjustments made, yes.
3 He reduced those times.

4 Q. He was wrong in every case but one on the
5 high side, wasn't he?

6 A. Is that the way you choose to
7 characterize it, yes.

8 Q. Okay. Now, there is nothing special
9 about these jumper jobs is there? Taking off a jumper
10 involves saying what's my binding post appearance on
11 each side of the frame, and then pulling off the wire
12 between those two binding posts; isn't that right?

13 A. If you want to ask specifics about the
14 process used to run jumpers, I think you probably
15 ought to ask Ms. Schlackman. I have never been a
16 central office technician. So I really don't -- I
17 mean, I have been in the COs, I have seen it in terms
18 of how they are put down. But day-to-day what they do
19 and how they run them, that's -- I can't speak to that
20 level of technical expertise.

21 Q. Did you ever see a frame tech run a
22 jumper job?

1 A. Yeah. Well, I have seen them in the
2 process. I don't know that I have gone -- I have gone
3 on CO tours and looked at different pieces of
4 equipment and work steps, but I haven't had the time
5 or opportunity to spend a whole day and, you know,
6 watch them start to finish.

7 Q. I must have misunderstood your testimony.
8 I thought you were saying that there was something
9 special about these jumpers that would have caused
10 Mr. Weinart to mis-estimate the times required to
11 perform them. You weren't saying that, right?
12 Nothing special about these jumper jobs that you are
13 aware of?

14 MR. BINNIG: I think it's been asked and
15 answered, and I will object on that basis.

16 MR. BOWEN: Actually, it has not, Your Honor.

17 EXAMINER WOODS: I think it does
18 mischaracterize his testimony, though. I think what
19 he said was it was a new service. I don't think he
20 said there was anything special about it. He said it
21 was a new service for which they had no data.

22 MR. BOWEN: Okay, I will re-ask.

1 Q. You are not asserting, are you, based
2 on your own personal knowledge, Mr. Smallwood, that
3 there is something unique associated with the kinds of
4 jumper jobs you are describing here because this is a,
5 as you call it, a new service?

6 A. Well, as a relatively non-technical
7 person, someone who hasn't done this, if you take a
8 situation where a technician's day-to-day job is
9 generally running voice circuits and then you
10 introduce a new service where he is now disconnecting
11 his voice circuit and running to a tie cable and back
12 from another tie cable and then going to another frame
13 and establishing jumpers on that frame, I could
14 concede that it's a different work process they have
15 to accommodate in order to establish a line-sharing
16 arrangement. I mean, that's sort of a lay person's
17 perspective. I can see where it would be different.
18 But, again, if you want to ask real technical
19 questions, I don't think that I'm the expert to ask
20 about that.

21 Q. I will ask real technical questions of
22 Ms. Schlackman. I am asking you whether, based on

1 your personal knowledge, you are asserting some
2 different technical basis for these kinds of jumpers
3 based on your assertion that this is, as you call it,
4 a new service or not, your personal knowledge?

5 A. I don't have the personal knowledge to
6 base that on so, no.

7 Q. Now, you are also aware, are you not,
8 that Mr. Riolo provided perhaps less detail but
9 similar time estimates for jumper jobs in this case?

10 A. I am aware that he has provided technical
11 testimony, yes.

12 Q. Have you had a chance to compare the
13 results of Mr. Weinart's re-estimation based on actual
14 experience with this so-called new service with
15 Mr. Riolo's estimates of jumper job times?

16 A. I have not made that comparison, no. I
17 didn't go back.

18 Q. If you were to find out that those two
19 numbers, that is Mr. Weinart's revised numbers and
20 Mr. Riolo's single original number, agreed within a
21 few percentage points, wouldn't that mean that
22 Mr. Riolo was right all along?

1 A. Yes, I suppose that it would, Mr. Bowen.

2 Q. Okay. All right. Now, if you look near
3 Footnote 2 on that same page, Tab 8.2.0, I will read
4 that for the record, it says, "Disconnect times have
5 been updated to match expected disconnect times when
6 compared to the validated installation times. The
7 disconnect times were evaluated by technical staff
8 with the appropriate relationship in time lines,"
9 again the same date as Footnote 1, 5/30/00, do you see
10 that?

11 A. Yes.

12 Q. I want you to translate that into my
13 version of english, if you wouldn't mind. Do you mean
14 that you didn't have any actual disconnects to look at
15 in the trial period and so you are using the installs
16 as a proxy for the disconnect times?

17 A. I think that would be a reasonable
18 translation. They are setting up circuits for the
19 line-sharing trial and, as I have testified, based on
20 that experience the subject matter expert revisited
21 this and revised the install. And in doing so, he
22 revised the disconnect based again on that experience.

1 Q. Well, without recording the actual
2 numbers, if you look with me at the five jumper jobs
3 at the top part of Tab 8.2.0 in the category
4 "Establish Circuit Cross Connects," and compare those
5 with the five disconnect jobs under "Disconnect
6 Circuit Cross Connects" in the lower half of the page,
7 the numbers are the same, right?

8 A. Yes.

9 Q. Does that mean that Footnote 2 means that
10 you are assuming that it takes the same amount of time
11 to disconnect a jumper as it does to install it?

12 A. Essentially, yes.

13 Q. All right. Now, if you look with me at
14 your prefiled direct, verified statement, where you
15 state at page 7, I believe, where you are asked the
16 question, "Please explain the nature of the
17 corrections required to Ameritech Illinois'
18 non-recurring cost study for line sharing," and you
19 talk with the three assumptions there?

20 A. Yes.

21 Q. Now, on the second two of those, the ones
22 we have already discussed, that is the splitter

1 ownership in the second case -- let me ask the
2 question more clearly, I'm sorry. The first
3 assumption that you are changing is a change in the
4 assumed type of splitter line cards that Ameritech
5 will install in its, Ameritech's own, splitter, right?

6 A. Correct.

7 Q. And that modification is to have a test
8 access jack on the card itself?

9 A. Uh-huh, yes.

10 Q. As opposed to a separately-wired test
11 access point; is that right?

12 A. Yes.

13 Q. And that reduces the number of jumpers by
14 one?

15 A. That is correct.

16 Q. All right. And by one, from six to five
17 total jumpers, right?

18 A. That is correct.

19 Q. And the second modification, can you just
20 explain that for the record to me, what you are
21 changing in terms of your assumptions?

22 A. The second modification relates to

1 splitter ownership. And this modification was
2 recognizing that, if the CLEC owns the splitter,
3 rather than cable the data line out of the splitter
4 back to the frame for cross connection or jumper
5 connection back to their collocation cable, they would
6 simply hard wire out of the splitter to their DSLAM
7 and, therefore, wouldn't require a jumper at that
8 point for their data line.

9 Q. And that reduces the number of jumpers
10 from five to four in that scenario, right?

11 A. In the event that it's CLEC-owned, yes.

12 Q. And then, finally, is the addition of the
13 IDF assumption in 20 percent of the central offices,
14 right?

15 A. Yes.

16 Q. And that reduces the cost connect jumpers
17 to three when you own the splitter and two when we own
18 the splitter, right?

19 A. That's correct, in the event that there
20 is not an IDF.

21 Q. Thank you. Could you turn now to your
22 question and answer addressing Ms. Murray's testimony.

1 In the question that begins at pages 15 of 27 of her
2 testimony, Ms. Murray argues that no incremental costs
3 of the loop should be allocated to the high frequency
4 portion of the loop; do you see that question?

5 A. Yes.

6 Q. And you say you agree with Ms. Murray
7 that any allocation of loop costs to service providers
8 in a line-sharing arrangement is necessarily
9 arbitrary; do you see that?

10 A. Yes, and that reflects the FCC's --

11 EXAMINER WOODS: Mr. Smallwood, we have got a
12 lot of witnesses to get through today. So I think
13 when you get asked a yes or no question, it would be
14 better to just answer yes or no.

15 THE WITNESS: Certainly, Your Honor.

16 MR. BOWEN: Just a second, I will get to the
17 real question here now.

18 Q. You then testified, to use your
19 terms, that a reasonable allocation is to split the
20 cost of the loop between voice and data 50/50, right?

21 A. That's my testimony, yes.

22 Q. Is that your conclusion that it's

1 reasonable as a cost analyst or your personal opinion
2 or what somebody else told you?

3 A. Well, that was a pricing decision that
4 was made, and I support that pricing decision. From
5 an economic perspective, you cannot allocate costs on
6 a shared facility. And, as Ms. Murray and I agree,
7 any allocation is arbitrary. Assuming that we get
8 allocated a hundred percent and the CLEC gets zero
9 percent is arbitrary. It would be just as arbitrary
10 for us to say zero for us and a hundred percent for
11 you. And I think what we have done is made, what we
12 perceived to be, a reasonable allocation that each
13 provider sharing that facility would incur half of the
14 cost.

15 Q. Well, would an allocation of 60/40 be
16 arbitrary?

17 A. Certainly.

18 Q. What about 70/30?

19 A. Any allocation would be arbitrary.

20 Q. Including 100/0 or 0/100?

21 A. Absolutely.

22 Q. All right. So 50/50 is arbitrary too

1 then, right?

2 A. Yes, it is.

3 Q. Could 60/40 be reasonable?

4 A. I think that if -- I think that when
5 there are two service providers sharing a facility, I
6 think that it's reasonable for each one, in my mind
7 it's reasonable, for each one to bear half of the
8 cost. If you are going to go beyond that and try to
9 come up with some other split, you would have to have,
10 in my mind, some logical basis for doing that. I
11 think that, as I recall, the FCC specifically rejected
12 value of service pricing, for example, but that would
13 be one way to do it. That has historical precedent.

14 Q. But you think 50/50 is reasonable because
15 of why? Because you are dividing by two for two
16 services?

17 A. If there are two people sharing a
18 facility, two service provider companies sharing a
19 facility, it seems reasonable that each company would
20 bear half of the cost of that facility.

21 Q. Seems reasonable to you, you mean?

22 A. Yes.

1 Q. Do you have any other basis besides what
2 you have just stated for your belief that that's a
3 reasonable allocation of those costs?

4 A. I think it has precedent in the
5 SBC/Ameritech merger order where they ordered us to
6 allocate 50 percent of the loop cost to ASI in the
7 event that we engage in line sharing.

8 Q. Could 60/40 be reasonable?

9 A. Are you asking my opinion, if any?

10 Q. No.

11 A. There is -- I think I have testified any
12 allocation is arbitrary.

13 Q. Yes, we went through that part. Now
14 what's the reasonable part? Could 60/40 be
15 reasonable?

16 A. With you paying 60 and us paying 40,
17 sure.

18 Q. I didn't specify which way that split
19 went. Okay, let's do that one. Do you think us
20 paying 60 and you paying 40 is reasonable?

21 A. No. I think that the pricing proposal
22 that we put forward is reasonable.

1 Q. It's the only reasonable proposal, you
2 think, of 50/50; everything else would be
3 unreasonable; is that right?

4 A. There are shades of gray, but I think
5 that this is the most reasonable.

6 Q. So others could be reasonable?

7 A. I don't think so but -- you know, it
8 calls for a personal conclusion, no.

9 Q. Well, it's your testimony, Mr. Smallwood.
10 You said it was reasonable?

11 A. No, it wouldn't be.

12 Q. The only reasonable split is 50/50?

13 A. Yes.

14 Q. Now, you mentioned the First Report and
15 Order of the SBC?

16 A. Yes.

17 Q. Are you thinking of these loop costs, as
18 being the technical term, is a joint cost or not, if
19 you know?

20 A. It would be a shared cost between the two
21 service providers.

22 Q. Do you know what a joint cost is?

1 A. Joint cost could be -- that term could be
2 used.

3 Q. Do you know whether or not the FCC
4 addressed joint costs in the First Report and Order?

5 A. I'm sure that somewhere in there that
6 they did.

7 Q. Do you recall them saying what the proper
8 range of recovered mechanisms for joint costs might
9 be?

10 MR. BINNIG: Well, I am going to object to
11 that question. If we are going to get specific about
12 a thousand-page order and ask for his recollection, I
13 think it's fair that he be given a copy of the First
14 Report and Order.

15 EXAMINER WOODS: I think the question is does
16 he recall. I think he can say yes or no.

17 THE WITNESS: No, I don't recall.

18 MR. BOWEN:

19 Q. Okay. You are not asserting that
20 anywhere in that First Report and Order the FCC says
21 it would be okay to recognize or allocate more than a
22 hundred percent of joint costs, are you?

1 A. As I have said, I don't recall. I
2 wouldn't think that they would have said that.

3 Q. And you wouldn't -- as a cost analyst you
4 wouldn't propose that kind of outcome, would you?

5 A. Generally, no, that wouldn't be.

6 Q. Well, specifically, in this case you
7 wouldn't propose that intentionally, would you?

8 A. No.

9 Q. Well, I will ask you to assume that the
10 monthly recurring cost of a loop is currently
11 recovered in full from the totality of services that
12 currently use that loop. Can you assume that with me
13 in Illinois?

14 A. Yes.

15 Q. I will ask you to assume also that line
16 sharing on that loop begins. Can you assume that with
17 me?

18 A. Yes.

19 Q. Aren't you seeking to recognize that same
20 50 percent of that same joint cost in the costs you
21 think are relevant in the line-sharing context?

22 A. We are seeking to recognize that -- we

1 are seeking to recognize that there is -- the FCC has
2 stated that there is a cost, there should be a cost,
3 associated with every function used to produce an
4 element. And we are trying to recognize that the CLEC
5 has -- you know, they are using an element, and there
6 should be some costs with that. If you are asking me
7 to -- we are not -- in answer to your question, if you
8 were to assume that the loop costs are being fully
9 recovered and are we still going to seek that the CLEC
10 bears some costs, yes.

11 Q. Doesn't that violate your statement that
12 you would never intentionally seek to recognize more
13 than a hundred percent of the joint costs?

14 A. I was going based on your assumption.

15 Q. Right. If my assumption is true,
16 wouldn't that violate your agreement that you would
17 never intentionally seek to recover more than a
18 hundred percent of a joint cost?

19 A. In a technical sense, I suppose it would,
20 yes.

21 MR. BOWEN: Your Honor, I think I am ready to
22 go into the in camera portion of the record.

1 EXAMINER WOODS: I might suggest that -- do
2 you have any cross of this witness?

3 MS. FRANCO-FEINBERG: I do, Your Honor.

4 EXAMINER WOODS: Is it extensive?

5 MS. FRANCO-FEINBERG: I would say about a
6 half an hour, 45 minutes.

7 EXAMINER WOODS: Mr. Reed, do you have cross?

8 MR. REED: Based on what I have heard now, I
9 probably may want to ask a couple of clarifying
10 questions, very, very de minumus.

11 EXAMINER WOODS: Is any of yours going to be
12 confidential?

13 MS. FRANCO-FEINBERG: No.

14 EXAMINER WOODS: Let's go ahead and finish up
15 the cross and then we'll do all the confidential stuff
16 at once.

17 CROSS EXAMINATION

18 BY MS. FRANCO-FEINBERG:

19 Q. Good afternoon, Mr. Smallwood. As I
20 think you heard yesterday, my name is Felicia
21 Franco-Feinberg and I am here representing Covad
22 Communications. I just want to ask you a series of

1 questions that I have that will build on Mr. Bowen's
2 questions as well. Just a moment. Would you agree
3 with me, Mr. Smallwood, that TELRIC applies to the
4 pricing of the high frequency portion of the loop UNE,
5 I think what the SBC terms the HFPL UNE; is that
6 correct?

7 A. It's been defined as a UNE, and TELRIC
8 would be the relevant cost from a pricing standard,
9 yes.

10 Q. And TELRIC requires rates to be based on
11 the lowest cost network configuration; is that
12 correct?

13 A. Yes.

14 Q. And if I understood your testimony,
15 previously Ameritech's ILEC-owned splitter
16 configuration assumes that the splitter is located
17 somewhere other than the MDF; is that correct?

18 A. That's correct.

19 Q. And are you aware, Mr. Smallwood, that US
20 West has agreed to provide an ILEC-owned splitter
21 configuration in which the splitter is mounted onto
22 the MDF?

1 A. The material that I have read related to
2 that question suggested that as a last case resort, if
3 there was no other space available in the central
4 office, US West would agree to that.

5 Q. And are you aware that US West has agreed
6 to provide a splitter configuration in which the
7 splitter is mounted on the MDF?

8 MR. BINNIG: I think it was asked and
9 answered.

10 EXAMINER WOODS: Do you mean in a specific
11 case?

12 MS. FRANCO-FEINBERG: No. I mean, I didn't
13 know if your hesitation was the phrase "ILEC-owned" or
14 just "a," whether he is aware of any splitter
15 configuration, whether it is ILEC-owned or CLEC-owned.

16 THE WITNESS: I am not familiar with the
17 details of it beyond what I have stated.

18 MS. FRANCO-FEINBERG:

19 Q. And in your cost study that you
20 presented, both I guess with your testimony as well as
21 the revised cost studies that are presented here
22 today, you did not conduct any analysis of the cost of

1 an ILEC-owned splitter configuration in which the
2 splitter is mounted or located, I'm sorry, on the MDF;
3 is that correct?

4 A. That's correct. We don't consider that
5 to be a forward-looking configuration.

6 Q. Okay. My question is, does your cost
7 study consider that or does your cost study do an
8 analysis of that configuration?

9 A. No.

10 Q. I think you addressed with Mr. Bowen that
11 Ameritech's proposed ILEC-owned splitter configuration
12 requires the replacement or removal of, I think you
13 said, five jumpers; is that correct?

14 A. For an ILEC-owned configuration?

15 Q. Yes, an ILEC-owned splitter.

16 A. There is five placed; there is one
17 removal.

18 Q. Thank you. And I think you also
19 indicated that Ameritech's proposed ILEC-owned
20 splitter configuration requires two tie cable pairs;
21 is that correct?

22 A. That is correct, from the MDF to the IDF.

1 Q. And I think you also addressed with
2 Mr. Bowen that, if the splitter was placed on the MDF,
3 there would be fewer jumpers required; is that
4 correct?

5 A. There would be fewer. Yes, there would
6 be fewer jumpers required.

7 Q. And would the -- if the splitter were
8 placed on the MDF, would there be two jumpers
9 required?

10 A. If it was a CLEC-owned.

11 Q. And, again, with an ILEC-owned splitter
12 placed on the MDF, that would only require one tie
13 cable; is that correct?

14 MR. BINNIG: Let me just object. I thought
15 the prior question was about jumpers and then this
16 question is about tie cables. I just want to make
17 sure --

18 MS. FRANCO-FEINBERG: Yes, that's correct.

19 THE WITNESS: If the splitter -- I'm sorry,
20 could you repeat your question?

21 MS. FRANCO-FEINBERG:

22 Q. My question is, for an ILEC-owned

1 splitter configuration, if the splitter is located on
2 the MDF, there would only need to be one tie cable; is
3 that correct?

4 A. If it was mounted on the MDF, then it
5 would be essentially the same configuration as if the
6 CLEC had an integrated splitter in its DSLAM. And I
7 think that would require two tie cables. One would be
8 the tie cable of the type that's captured in my study
9 going frame to frame. The second would be the
10 collocation tie cable from the IDF to the collocation
11 arrangement, assuming that there was an IDF where the
12 collocation arrangement terminated.

13 Q. I think what you indicated when Mr. Bowen
14 was questioning you earlier is that the second tie
15 cable, the collocation tie cable, would not be in your
16 cost study?

17 A. That's correct.

18 Q. So for purposes of your cost study, if
19 you would analyze an ILEC-owned splitter located on
20 the MDF, there would only be one tie cable?

21 A. For my cost study purposes in this rate
22 element, that is correct.

1 Q. Okay. So it's correct, isn't it, that
2 your testimony and your cost study fails to consider
3 the reduced number of tie cables associated with the
4 MDF-mounted ILEC-owned splitter configuration that we
5 were just discussing?

6 A. The cost study is developed assuming the
7 universe of services that we offer. And when we
8 designed the forward-looking design, we went with a
9 remote splitter configuration, rack mounted. So, no,
10 it's not in the cost study.

11 Q. So the answer to my question is no, you
12 didn't consider that?

13 A. That is not a part of the cost study.

14 Q. Thank you. And would you agree with me
15 that each extra placement or removal of jumpers adds
16 additional cost to the configuration?

17 A. Yes.

18 Q. And would you agree with me as well that
19 each extra tie cable adds additional cost to the
20 configuration?

21 A. There is a cost for tie cables, yes.

22 Q. Mr. Smallwood, you are an employee of SBC

1 Telecommunications; is that correct?

2 A. Yes.

3 Q. And you are not now an employee of
4 Ameritech?

5 A. No.

6 Q. And Ameritech is a wholly-owned
7 subsidiary of SBC at this time?

8 A. Of SBC Corporation.

9 Q. Of SBC Corporation; is that correct?

10 A. Yes.

11 Q. And there are no other companies that own
12 Ameritech other than SBC Corporation, are there?

13 A. Not that I'm aware of.

14 Q. You may be surprised in any event. And
15 you have never been an employee of Ameritech at any
16 time, have you, Mr. Smallwood?

17 A. No.

18 Q. As an associate director of cost analysis
19 and regulatory -- I think that's your title; is that
20 correct?

21 A. Yes.

22 Q. You are familiar with the cost support

1 ILECs have filed or file for federal access tariffs,
2 aren't you?

3 A. I am aware of the filings of other ILECs,
4 yes.

5 Q. Thank you. And is it correct that those
6 cost studies must identify all the direct costs of
7 providing the tariffed service?

8 A. Yes, they were there as a long run
9 incremental cost study to establish a price floor.

10 Q. So it is correct that they identify all
11 the direct costs of providing the service?

12 A. The direct and incremental costs.

13 Q. And isn't it also true that direct costs
14 are those costs that are directly caused by the
15 service? Is that true?

16 A. Yes, an incremental costing methodology
17 is a direct cost causation.

18 Q. Thank you. In fact, it's true that the
19 FCC said that the line sharing -- in the Line Sharing
20 Order the direct costs are comparable to incremental
21 costs; I think you indicated that the direct costs are
22 incremental costs in fact; is that true?

1 A. Incremental costs are direct costs in
2 nature, yes.

3 Q. Mr. Smallwood, you are familiar with
4 SBC's federal access tariff for ADSL service, aren't
5 you?

6 A. I am familiar with the Southwestern
7 Bell-Texas filing.

8 Q. And Southwestern Bell Telephone Company,
9 SWBT, is also owned by SBC Corporation; is that
10 correct?

11 A. That's correct.

12 Q. In the Southwestern Bell federal access
13 tariff for ADSL, which you indicated you are familiar
14 with, did that tariff attribute any costs to the high
15 frequency portion of the loop?

16 A. No, it did not.

17 Q. And, Mr. Smallwood, as far as you are
18 aware, Ameritech has no current plans to reduce the
19 rates for its voice services when a CLEC uses the high
20 frequency portion of the loop; is that correct?

21 A. That's correct.

22 Q. Again to refer back to the Southwestern

1 Bell federal retail tariff rate ADSL that you referred
2 to, did that tariff attribute any direct cost for the
3 tie cables that carries the voice traffic only between
4 the splitter and the frame?

5 A. Off the top of my head I don't recall
6 right now.

7 Q. Did it attribute any cost -- did the
8 retail tariff attribute any direct cost for the tie
9 cable that carries the voice traffic between the IDF
10 and the MDF?

11 A. Again, without the study in front of me
12 to review, I don't recall off the top of my head. I
13 would have to look at the specific costing components.

14 Q. Before SBC created ASI or AADS, it
15 directly offered DSL service; is that correct?

16 MR. BINNIG: Well, I am going to object to
17 the form of the question. It assumes a fact that is
18 not in evidence. That's wrong that SBC created AADS.

19 MS. FRANCO-FEINBERG: I will rephrase my
20 question.

21 Q. Before SBC created ASI, which is a
22 Southwestern Bell data affiliate, is that correct,

1 SBC's data affiliate, is that correct?

2 A. Yes.

3 Q. So before SBC created ASI, it directly
4 offered DSL services; isn't that correct?

5 A. SBC doesn't offer data services.
6 Southwestern Bell Telephone Company offered data
7 services.

8 Q. So before ASI existed, Southwestern Bell
9 directly offered DSL services; isn't that correct?

10 A. Yes.

11 Q. And Southwestern Bell used a splitter
12 that's integrated into its DSLAM; isn't that correct?

13 A. That's my understanding.

14 Q. An integrated splitter requires a tie
15 cable to bring the voice signal back to the switch
16 after it's passed through the splitter; is that
17 correct?

18 A. Yes. From wherever the DSL AM is located,
19 if the splitter is integrated, there would have to be
20 some cabling required to carry the voice circuit back
21 to the point of termination.

22 Q. Yes. So your answer is yes?

1 A. Yes.

2 Q. Thank you. Okay. And in the
3 Southwestern Bell federal ADSL tariff was any direct
4 cost -- I'm sorry. Did that retail study attribute
5 any direct cost to any of the cross connects or
6 jumpers, whichever term you choose to use, required to
7 provide ADSL service across the existing voice loop?

8 A. I'm sorry, could you repeat your
9 question?

10 Q. Sure. In the Southwestern Bell Telephone
11 federal ADSL retail tariff that you indicated you are
12 familiar with, did that study attribute any direct
13 cost to any of the cross connects or jumpers required
14 to provide ADSL service across the existing voice
15 loop?

16 MR. BINNIG: Let me object to the vagueness
17 because one thing Mr. Bowen was very clear about was
18 cross connects is often used generically to
19 distinguish between jumpers and tie cables. This
20 question asked for jumpers or cross connects.

21 MS. FRANCO-FEINBERG: I will be happy to
22 clarify subject to Mr. Bowen's definition.

1 Q. I don't know if you need me to repeat
2 the whole question. Why don't we have this question
3 focus on jumpers, whether or not the retail tariff
4 attributed any direct cost to the jumpers required to
5 provide ADSL service across existing voice loops?

6 A. Again, without looking at the study, the
7 non-recurring cost component of that, I don't recall.

8 Q. Mr. Bowen also asked you about
9 Ameritech's proposed OSS charge?

10 A. Yes.

11 Q. And I think you indicated that you have
12 no supporting documentation regarding that charge in
13 your cost study; is that correct?

14 A. That's correct. I mean, well, that's not
15 completely correct. The monthly forecasts that
16 support that development are itemized in the cost
17 study by month. But the supporting documentation for
18 the dollar amount in there was not included as an
19 attachment to the cost study.

20 Q. So there is no documentation regarding
21 the vendor costs; is that correct?

22 A. Not included as a part of the cost study.

1 Q. And in your cost study are parties able
2 to determine whether the vendor costs for the OS S
3 upgrade are attributable to different CLECs or to AADS
4 or both? Is there a way to do that?

5 A. Not with what's in my cost study, no.

6 MS. FRANCO-FEINBERG: If I can just take one
7 moment?

8 EXAMINER WOODS: Sure.

9 MS. FRANCO-FEINBERG: Can I just return for a
10 moment back to Southwestern Bell's retail tariff for
11 ADSL services?

12 EXAMINER WOODS: It's your cross.

13 MS. FRANCO-FEINBERG: Thanks.

14 Q. You have indicated that you couldn't
15 recall whether in fact there was a direct cost for a
16 jumper or a direct cost, I think you indicated, for a
17 tie cable?

18 A. That's correct.

19 Q. If there was a direct cost, would it be
20 in that Southwestern Bell retail tariff for ADSL?

21 A. Again, I don't recall what was in that
22 tariff or the cost, more specifically, the cost study

1 supporting it. I would have to review that in order
2 to determine the exact cost configuration, the design
3 that went into that.

4 Q. My question is, the answer to my question
5 would in fact be in the retail ADSL tariff; is that
6 correct?

7 EXAMINER WOODS: I don't understand. Are you
8 asking whether or not you can look at the tariff and
9 there is a specific set out for tie cables and
10 jumpers?

11 MS. FRANCO-FEINBERG: I am saying, my
12 question is if there was a direct cost. My question
13 is, if there is a direct cost, the answer would be,
14 whether there is or isn't, would be in that federal
15 retail tariff.

16 MR. BINNIG: The tariff or the cost studies
17 supporting the tariff?

18 MS. FRANCO-FEINBERG: Oh, I believe in the
19 cost studies supporting the tariff.

20 EXAMINER WOODS: I think that is a question
21 you can answer. If there is a direct cost, would it
22 be reflected in the cost study.

1 MS. FRANCO-FEINBERG: Yes, thank you for that
2 clarification which is much clearer than my original
3 question.

4 THE WITNESS: A. Assuming that the design
5 considered was the same, then the cost would have been
6 developed the same. It's my recollection that the
7 methodology used in that cost study was substantially
8 different from what we are doing here today.

9 MS. FRANCO-FEINBERG: Your Honor, Covad would
10 look to renew its request for the federal retail
11 tariff that Southwestern Bell provided to the FCC for
12 the cost study, I should say more precisely.

13 MR. BINNIG: I don't understand what the
14 relevance is.

15 EXAMINER WOODS: Isn't that a public record?

16 MS. FRANCO-FEINBERG: The cost study is not
17 public.

18 MR. BINNIG: I don't know whether it is a
19 public record or not, but my objection is as to the
20 relevance. The ILEC is the subject of this
21 arbitration. It is Ameritech Illinois. It's an
22 uncontroverted fact that Ameritech Illinois has never

1 provided a retail DSL service.

2 MS. FRANCO-FEINBERG: And I think SBC has
3 prepared the cost studies that are at issue here.

4 MR. BINNIG: SBC is not the incumbent LEC.

5 MS. FRANCO-FEINBERG: I think we have
6 established that SBC is the entity that has provided
7 and prepared the cost studies here. And the FCC has
8 indicated that the federal retail tariff is the best
9 evidence as to what the direct costs for the services
10 are. And I think we have the right to see that
11 evidence at this time.

12 EXAMINER WOODS: And what's that going to
13 prove for our case?

14 MS. FRANCO-FEINBERG: Covad believes that
15 access to the cost study will establish what SBC
16 believes in fact are the direct costs for providing
17 DSL services across existing voice loops.

18 EXAMINER WOODS: On the interstate basis.
19 Because it's an interstate tariff, right?

20 MS. FRANCO-FEINBERG: That's correct. But
21 the FCC said that --

22 EXAMINER WOODS: You just lost me. Look, I'm

1 sorry, because it's an interstate service, it's apples
2 and oranges.

3 MS. FRANCO-FEINBERG: I disagree.

4 EXAMINER WOODS: Well, okay, but you have got
5 my ruling. No.

6 MS. FRANCO-FEINBERG: It's my understanding
7 that all DSL services are interstate. So the DSL
8 service that we are providing, those would be
9 interstate, it's my understanding. So it is in fact
10 an apples to apples comparison.

11 MR. DEANHARDT: Your Honor, if I can address
12 that, we can provide the authority that establishes
13 from the FCC that all DSL services are interstate.
14 It's a Bell Atlantic decision that I don't have the
15 cite off the top of my head.

16 EXAMINER WOODS: Then why are we arbitrating
17 it?

18 MR. DEANHARDT: Well, the cost of UNEs, Your
19 Honor, are under 252 directly subject to state
20 discretion.

21 MR. BINNIG: I would make an additional
22 point, Your Honor, which is that not only are we

1 talking about an interstate tariff that the incumbent
2 here has never offered and never filed, doesn't have,
3 Ameritech Illinois doesn't have this tariff, not only
4 is this a lack of relevance but in this proceeding
5 it's just -- it's going to add nothing to this
6 proceeding. I mean, they are talking about trying to
7 get something in discovery. We are here in hearing.
8 It's not going to be usable in this proceeding.

9 One possible option here is that they
10 pursue it in discovery in the tariff investigation
11 case, and we can fight it out in that case.

12 MR. DEANHARDT: Your Honor, do you mind if I
13 address it just for a moment?

14 EXAMINER WOODS: Quickly.

15 MR. DEANHARDT: All of the witnesses that
16 Ameritech are putting on here are SBC witnesses,
17 including Mr. Smallwood. SBC is the controlling
18 company of both SWBT and of Ameritech. The point here
19 is that SWBT, SBC through SWBT, has taken a position
20 in front of the FCC on what each of the elements of
21 the direct cost of providing DSL across a voice loop
22 are. Mr. Smallwood has testified that those direct

1 costs are the same concept as incremental costs which
2 is what we are here to decide, what's the total, the
3 total elemental long run incremental cost of the HFPL.

4 SBC is on record saying whether or not it
5 believes it is a direct cost and, therefore, an
6 incremental cost based on Mr. Smallwood's testimony,
7 by saying, by determining whether or not it included
8 that cost in its SWBT retail tariff. It is,
9 therefore, the best evidence of the credibility of
10 what's being said here which is that there are costs
11 associated with the HFPL that have to be recovered
12 because they are incremental costs of providing the
13 service.

14 MR. BINNIG: If I can just briefly respond,
15 it's not the best evidence of anything that's relevant
16 to this case because the entity that is subject to
17 this arbitration, under the Federal Act it's clear, it
18 is the incumbent LEC which is Illinois Bell Telephone
19 Company or Ameritech Illinois. It is not a holding
20 company. It is not a holding company that's several
21 entities removed. And there has been no showing that
22 satisfies any legal standard for piercing the

1 corporate veil, which is essentially what Covad is
2 asking to be done here.

3 MR. DEANHARDT: Your Honor, Mr. Smallwood is
4 not from Ameritech.

5 EXAMINER WOODS: We are done; move on.

6 MS. FRANCO-FEINBERG: Certainly, Your Honor.

7 Q. If I could return, Mr. Smallwood, to your
8 OSS cost estimates?

9 A. Yes.

10 Q. I'm sorry, is the lump sum -- if I could
11 just ask, maybe we should go off the record for this?

12 EXAMINER WOODS: Off the record or in camera?

13 MS. FRANCO-FEINBERG: Off the record for a
14 moment.

15 EXAMINER WOODS: Okay. Off the record.

16 (Whereupon there was then had an
17 off-the-record discussion.)

18 EXAMINER WOODS: Back on the record.

19 MS. FRANCO-FEINBERG:

20 Q. I know with Mr. Bowen you referenced a
21 line count estimate for OSS costs underlying cost
22 studies?

1 A. Yes.

2 Q. What's the source of that line count
3 estimate?

4 A. That was provided to the cost
5 organization by Product Management.

6 Q. Do you know where the cost organization
7 received it? Is it Product Management -- where did
8 Product Management get it?

9 A. They developed it based on a Morgan
10 Stanley Dean Witter report that had forecasts for
11 broadband services by type, I think, and for different
12 types of broadband services, one of which was DSL, and
13 they developed it based on that forecast.

14 Q. And, Mr. Smallwood, have you ever
15 personally reviewed this Morgan Stanley report?

16 A. I have seen it and looked through it. I
17 haven't read the entire document.

18 Q. And who did in fact review the entire
19 document?

20 A. I'm not sure who at Product Management
21 worked on the development of that.

22 Q. But you are sure that someone did in fact

1 review the entire document?

2 A. I mean, I can't speak to what Product
3 Management did or didn't do. I know that they took
4 data from that document and used it to develop the
5 forecast. I would assume that they did, but that
6 would be speculation.

7 Q. Based on your understanding of the Morgan
8 Stanley report, what's the scope of the line count
9 estimate? Is it North America? Is it the United
10 States?

11 A. It's my recollection that it was the U.S.

12 Q. SBC operates in only 13 states in the
13 United States; is that correct?

14 A. That is correct.

15 Q. And do you have any idea how the person
16 who prepared the estimate for your cost study
17 converted Morgan Stanley's national estimate into an
18 estimate for the specific SBC 13 states?

19 A. I don't know the specific assumptions
20 that they used in that data manipulation.

21 Q. I think you also indicate in your
22 testimony, Mr. Smallwood, that you will allocate, or

1 SBC will allocate, the OSS upgrade cost over a
2 three-year period; is that correct?

3 A. The cost recovery is spread over a
4 three-year period, yes.

5 Q. And as a cost expert I assume you are
6 familiar with the concept of equipment life used in
7 depreciation calculations; is that correct?

8 A. Yes.

9 Q. Did you do any research regarding the
10 anticipated life of the OSS system upgrade that you
11 are relying on for your cost study?

12 A. The decision to go over three years was
13 made based on the FCC's direction and the Line Sharing
14 Order that we could recover it over a reasonable
15 period of time. And given the dynamic in this market
16 and the prospect of other broadband services, we went
17 with what we thought was a reasonable recovery period
18 as opposed to what might be an equipment life period
19 that would far extend beyond the usefulness of that
20 system.

21 Q. I just want to clarify something,
22 Mr. Smallwood. The FCC never indicated that three

1 years in fact is a reasonable period of time, did it?

2 A. No.

3 Q. And isn't it correct that the OSS system
4 upgrade that SBC is putting in place will presumably
5 be used for more than three years?

6 A. It could be.

7 Q. Would you agree that it presumably would
8 be used for more than three years?

9 A. I think that all depends on the dynamic
10 and technological change in the marketplace.

11 Q. As you understand things currently, would
12 you anticipate that it would be used for longer than
13 three years, under current market, the current market?

14 A. I would assume so, yes.

15 Q. But your cost study spreads the cost of
16 the OSS system over only the three-year period; is
17 that correct?

18 A. We estimated it based on a three-year
19 cost recovery period, and I think that we have stated
20 that we will be tracking that cost recovery and that
21 charge will cease when the costs are recovered.

22 Q. So the answer to my question is, although

1 you would expect that the OSS system will last longer
2 than three years, you are only spreading the costs
3 over three years; is that correct?

4 A. I think what I said, what I intended to
5 say, is that the useful life could extend beyond three
6 years, but we have chosen three years as our cost
7 recovery period.

8 Q. Mr. Smallwood, if the anticipated life of
9 the OSS system were ten years and you spread the
10 system cost of the system over ten years, the OSS cost
11 per HFPL UNE would be less than what you are
12 proposing; is that correct?

13 A. Yes, and if the useful life was less than
14 three years, we wouldn't recover the costs.

15 Q. You have no reason to expect it to be
16 less than three years, though; is that correct?

17 A. I don't know what's going to happen with
18 technology over the next period. Technological
19 innovation is going at a pretty good clip.

20 Q. I guess my question is, you have no
21 reason to expect it to last less than three years;
22 isn't that correct?

1 A. I think we hope that it will be useful
2 for three years.

3 Q. Okay, thank you.

4 A. Or until we recover our costs.

5 Q. I believe you have a copy of Rhythms
6 Cross Examination Exhibit Smallwood 2; is that
7 correct?

8 A. Yes.

9 Q. Which is Covad's Data Request Number 26?

10 A. Yes.

11 MS. FRANCO-FEINBERG: And I believe you have
12 copies as well?

13 MR. BINNIG: Yes.

14 MS. FRANCO-FEINBERG:

15 Q. I believe you indicated that the request
16 asks for work required in the central office to
17 connect a shared line to Covad's equipment; is that
18 correct?

19 A. That's the gist of the question, yes.

20 Q. And have you ever seen the information
21 provided in Covad -- in Rhythms Cross Exam Exhibit 2
22 before? I think you indicated you have.

1 A. Yes.

2 Q. The cost study that you have presented in
3 revised form today at the hearing uses different
4 assumptions, doesn't it, then what's in Covad Request
5 26?

6 A. The times specifically have been revised,
7 yes.

8 Q. So it uses different -- in addition to
9 different time assumptions, it also specifically
10 changes the number of cross connects?

11 A. I'm sorry, yes, that's correct, yes.

12 Q. And, specifically, the revised cost study
13 no longer requires -- or there is one fewer cross
14 connect in your revised cross study, is that correct,
15 than what's in Rhythms Cross Exhibit 2, Smallwood 2?

16 A. Well, just to be clear for the record,
17 the response to this data request preceded the design
18 change where we differentiated between ILEC-owned and
19 CLEC-owned. So this assumes six jumper placements.
20 In the revised cost study where we differentiate
21 between ILEC-owned and CLEC-owned, it went to five in
22 the case of ILEC-owned and four in the case of

1 CLEC-owned.

2 Q. Okay. So for an ILEC-owned splitter
3 configuration your revised cost study now has one
4 fewer jumper; is that correct?

5 A. That's correct.

6 Q. And that's because of SBC's decision to
7 use splitters with pin jacks for test access; is that
8 correct?

9 A. There is no requirement to jumper to the
10 test port, that is correct.

11 Q. So, in fact, the change in the number of
12 cross connects is because of SBC's decision to use
13 those splitters with different test access pin jacks;
14 is that correct?

15 A. Yes, the design modification.

16 Q. So the variables in your cost studies are
17 changing based on Ameritech's network decisions; isn't
18 that correct?

19 A. Yes.

20 Q. And Ameritech's cost studies are based on
21 the network configuration proposed by Ameritech in
22 this proceeding; isn't that correct?

1 A. I'm sorry, could you repeat that?

2 Q. Sure. Ameritech's cost studies that are
3 being presented here are based on the network
4 configuration proposed by Ameritech?

5 A. That's correct.

6 Q. And that configuration makes certain
7 assumptions about where and how Ameritech has decided
8 to locate the splitter; is that correct?

9 A. Yes.

10 Q. So, for example, as we just discussed,
11 the number of cross connects are affected directly by
12 Ameritech's decisions regarding network configuration;
13 is that correct?

14 A. Yes.

15 Q. And also, for example, the number and
16 length of tie cables are also affected by Ameritech's
17 network decisions; is that correct?

18 A. Yes, the cost study is designed to
19 reflect the design of the elements. So, yes, all the
20 design changes would affect the cost study.

21 Q. And I believe you understand that Covad
22 is proposing other locations for the splitter that are

1 closer to the frame than the configuration that
2 Ameritech is proposing in this proceeding; is that
3 correct?

4 A. I am aware that Covad has proposed a menu
5 of options, yes.

6 Q. So isn't it correct that Ameritech's
7 decision about how to configure the network is what's
8 directly affecting the cost study?

9 A. The decisions of how the network is
10 designed affect every cost study, yes.

11 Q. It is Ameritech's specific decisions here
12 that are affecting Ameritech's specific cost study;
13 isn't that correct?

14 A. Yes.

15 Q. And it is Ameritech's decisions about the
16 network that are causing the costs in your study;
17 isn't that correct?

18 A. Yes.

19 MS. FRANCO-FEINBERG: That's all we have,
20 thank you.

21 EXAMINER WOODS: Mr. Reed.

22

1 CROSS EXAMINATION

2 BY MR. REED:

3 Q. Good afternoon, Mr. Smallwood.

4 A. Good afternoon.

5 EXAMINER WOODS: It's not evening yet?

6 MR. REED: It's close to it. I feel for you.

7 Short, sweet and to the point, just to clear up some
8 questions. They got real convoluted there for awhile,
9 and I am asking Ms. Schlackman to walk through the
10 technical parts of it. I need you to go back to her
11 Attachments 1 and 2, just so I can get something clear
12 in my mind regarding the costing of certain items.
13 Just let me know when you have it.

14 THE WITNESS: I have it.

15 MR. REED:

16 Q. Attachment 1, Tie-Cables?

17 A. Yes.

18 Q. Your cost study includes the costs
19 associated with the tie-cables that run between the
20 IDF and the MDF; is that correct?

21 A. Yes.

22 Q. The tie-cables associated with the CLEC

1 POTS splitter and any other tie-cables in the box on
2 the left side of the page are associated with
3 Ameritech's collocation cost study; is that correct?

4 A. In this diagram?

5 Q. In that diagram.

6 A. Yes.

7 Q. Let's move over to 2. Now, whether or
8 not they are properly there is something that we can
9 argue about later on, but that's what's depicted on
10 that diagram and in the study that is at issue here,
11 just the IDF, the ones running between the IDF and the
12 MDF?

13 A. Yes.

14 Q. Let's move over to the next one. Once
15 again, your cost study that's in the record here only
16 addresses the tie-cables running between IDF and the
17 MDF; is that correct?

18 A. Yes. But if I can clarify, there is a
19 recurring rate element for a cross-connect and that
20 cost is for these tie-cables that run between the MDF
21 and the IDF. As I stated in the case of an
22 Ameritech-owned splitter, there are installation

1 costs.

2 Q. Yeah, and I am real slow, okay, and I
3 will back in. Explain if I miss something .

4 A. So, yes, the answer to your question.

5 Q. Now, the cables associated with the
6 splitter, all right, from what I heard you say, those
7 costs are associated with the equipment, the splitter
8 itself; is that correct?

9 A. Yes.

10 Q. And any tie cables in the box over here
11 on the left side of the page are imbedded in the
12 collocation cost, is that correct? If there are any,
13 and I am no technical guy, but if there were tie
14 cables associated with this box over here on the left
15 side of the collocation, that would be in a
16 collocation study?

17 A. There is a differentiation. On the
18 left-hand side, the cable that goes from the CLEC's
19 DSLAM to the IDF, that would be a part of the
20 collocation arrangement.

21 Q. All right.

22 A. The three cables that are cabling the

1 splitter to the IDF, those would be a part -- those
2 costs would be capitalized as a part of the investment
3 and recovered through the recurring costs for the
4 splitter.

5 Q. For the equipment?

6 A. For the equipment.

7 Q. That's what I am calling the splitter,
8 the equipment. So what I said is right; I just didn't
9 articulate it like a cost guy would.

10 A. Right. I just wanted to clarify to say
11 that those three cables would not be a part of the
12 collocation arrangement.

13 Q. Right, and I understand that. They would
14 just be a part of the splitter, the equipment cost,
15 and that one line running from the DS line to the IDF
16 is associated with the collocation cost study?

17 A. That's correct.

18 MR. REED: Then I did earn something this
19 morning. That confused me, but thank you. You have
20 clarified it. I don't have anything else. Thank you.

21 EXAMINER WOODS: Instruct the court reporter
22 to close the open transcript and begin the in camera

1 proceeding which will be kept in the confidential
2 office of the Chief Clerk.

3 (Whereupon at this point the
4 proceedings were considered
5 proprietary and are contained
6 in the separate In Camera
7 Transcript.)

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1 CONTINUATION OF PROCEEDINGS

2 EXAMINER WOODS: And we are back on the
3 record.

4 MR. BOWEN: Your Honor, could I move for my
5 exhibits or is it preferable to do that later?

6 EXAMINER WOODS: We can do that now.

7 MR. BOWEN: Rhythms would move the admission
8 of Cross Exhibits Smallwood 1 and 2 at this time.

9 EXAMINER WOODS: Objections?

10 MR. BINNIG: No objection, subject to the
11 following caveat, although I don't think anyone has
12 done this yet. Obviously, we are going to want these
13 cost studies submitted as proprietary exhibits. As
14 long as these are also submitted as proprietary
15 exhibits, we have no objection.

16 EXAMINER WOODS: They will be submitted as
17 confidential and marked so.

18 MR. BOWEN: Just for clarification, Your
19 Honor, Ameritech has moved and admitted other
20 documents that are similar in nature. Do I understand
21 counsel to be saying that he wants some or all of
22 those to be confidential as well?

1 MR. BINNIG: The 4.1, 4.2 and JRS -2, we would
2 also request be designated as proprietary exhibits.

3 EXAMINER WOODS: What I am going to instruct
4 you to do then is confer with the court reporter
5 either on break or at the conclusion of the hearings
6 today and instruct her which should be marked
7 confidential and have them put in envelopes and have
8 them taken care of by counsel.

9 (Whereupon Cross Exhibits
10 Smallwood 1 and 2 were admitted
11 into evidence.)

12 EXAMINER WOODS: I assume you want a few
13 minutes for redirect?

14 MR. BINNIG: I do, Your Honor. I would like
15 to take a short break before we do that.

16 EXAMINER WOODS: Ten minutes, fifteen. We
17 will be back here at five till.

18 (Whereupon the hearing was in a
19 brief recess.)

20 EXAMINER WOODS: Go back on the record for
21 redirect.

22 MR. BINNIG: Thank you, Your Honor.

1 REDIRECT EXAMINATION

2 BY MR. BINNIG:

3 Q. Mr. Smallwood, do you recall some
4 questions from Mr. Bowen, I think, back to this
5 morning, a long time ago, related to the FCC's TELRIC
6 principle?

7 A. Yes.

8 Q. I am going to give you a copy of the
9 FCC's First Report And order to call your attention to
10 Paragraph 685?

11 A. Okay.

12 Q. It's falling apart, I know. And what is
13 the FCC discussing in this paragraph?

14 A. Well, this paragraph is a continuation
15 from 683. In this they are discussing different
16 options for approaching the TELRIC methodology. And
17 then 685 specifically they discuss the option that
18 they believe it's the appropriate benchmark of
19 forward-looking costs and existing network design.

20 Q. Could you read that one sentence that you
21 are referring to out of Paragraph 685?

22 A. It says this benchmark of forward-looking

1 costs and existing network design most closely
2 represents the incremental costs that incumbents
3 actually expect to incur in making network elements
4 available to new entrants?

5 Q. Is it your understanding that that's the
6 approach that the FCC adopted?

7 A. Yes.

8 Q. And what's your view of the consistency
9 between the sentence which you just read and your cost
10 studies?

11 A. I think they are completely consistent.

12 Q. And do you also recall some questions
13 from Mr. Bowen this afternoon asking you to assume
14 about the recovery of certain costs and retail rates
15 this afternoon?

16 A. Yes.

17 Q. Do you recall that? How are Ameritech's
18 retail rates for telephone service regulated in
19 Illinois?

20 A. They are subject to an alternative
21 regulation plan.

22 Q. And is that plan price cap regulation, to

1 your knowledge?

2 A. Yes.

3 Q. It's not rate of return regulation?

4 A. No, it's not.

5 Q. How long has the price cap regulation of
6 retail rates been in effect?

7 A. Since 1994, I believe.

8 Q. To your knowledge, Mr. Smallwood, do the
9 standards for arbitration in the 1996 Act have any
10 reference to retail rates or retail revenues?

11 A. In Section 252(d)(1) it states that
12 TELRIC costs and prices are to be set without
13 reference to rate of return or rate-based proceeding.
14 That's the reference I recollect.

15 Q. And what's your understanding of that
16 language?

17 A. That when you are looking at costs, I
18 read that in conjunction with like Paragraph 691 where
19 it says every element has to have a cost. My
20 understanding is the arbitration standards are to go
21 in and determine the costs for unbundled network
22 elements from the Act subject to FCC interpretation

1 without reference to what retail rates or revenues are
2 doing.

3 Q. Then Mr. Bowen also asked you some
4 questions about time and motion studies, and questions
5 about proper statistical sizes when you are doing the
6 time and motion studies; do you recall those
7 questions?

8 A. Yes.

9 Q. And I believe you testified that the
10 service that you are costing here is a new service; is
11 that correct?

12 A. Yes.

13 Q. Is there any historical statistical
14 information for that new service that you are aware
15 of?

16 A. No.

17 Q. Was it your goal in doing your cost study
18 to use the best information you could get, given the
19 unavailability of any historical statistical
20 information?

21 A. Yes, as reflected in the two revisions.

22 Q. And then Ms. Feinberg asked you, I think,

1 one or two questions about the documentation regarding
2 vendor costs for the OSS improvement and whether that
3 was attached as part of your cost study?

4 A. Yes.

5 Q. Was that information provided to Covad or
6 Rhythms?

7 A. Yes, that was provided in a data request,
8 in response to a data request.

9 MR. BINNIG: Your Honor, we have no further
10 questions at this time.

11 MR. BOWEN: No recross here.

12 MS. FRANCO-FEINBERG: None.

13 EXAMINER WOODS: Okay, thank you, Mr.
14 Smallwood. At this time you want to call Ms. Murray
15 to the stand?

16 MS. HIGHTMAN: Is it possible to find out
17 what your ruling is with regard to our witness?

18 EXAMINER WOODS: I can take that up. What's
19 the reason for the witnesses' unavailability, first?
20 Why can't the witnesses be here, the ones that were
21 scheduled?

22 MR. BOWEN: Mr. Baros is no longer with the

1 company. That was the first reason. Ms. Belland is
2 not feeling well. We are informed that she is not
3 well enough to appear either today or tomorrow. She,
4 in fact, is on a plane heading back west.

5 EXAMINER WOODS: And Ms. Rice is going to be
6 here for two days, right?

7 MR. BOWEN: Pardon me?

8 EXAMINER WOODS: The witness that you are
9 proposing is going to be here for both days?

10 MR. BOWEN: Yes, she is, Your Honor.

11 EXAMINER WOODS: So we could arguably put her
12 off until last to see if we are going to be coming
13 back next week, to see if at least the one we missed
14 could be here by next week.

15 MS. HIGHTMAN: To see if what?

16 EXAMINER WOODS: We can see -- if Ms. Belland
17 is nocturnal or something like that, she can probably
18 show up next week. So what I am suggesting is we put
19 her off until last to see if we even get her done. We
20 may get to stopping time tomorrow and have four
21 witness left. The way this think is going, I just
22 don't know.

1 In the interim my ruling would be this.
2 I have reviewed the testimony. I don't particularly
3 have any problem with Ms. Rice adopting Karen
4 Belland's testimony because I don't think there is
5 much in there that requires expert opinion, although
6 there may be one or two things. In terms of the other
7 testimony, if she is going to adopt it, there will be
8 a number of passages that I will be striking on my own
9 motion as without the expertise, specifically the
10 places where she recommends specific provisioning
11 times. I don't believe there is anything in her
12 history that will allow her to specifically recommend
13 the number of hours it should take to do something. I
14 just don't see that from what's contained in her
15 curriculum. I did mark those.

16 MS. HIGHTMAN: Do you want to give us
17 specifics?

18 EXAMINER WOODS: I am looking for them right
19 now. Again, this is all that was in the prefiled so
20 it may not correspond with the electric. Page 19 of
21 31, and this is again rough, but roughly from line 3
22 through line 21.

1 MR. BINNIG: What page was that, Your Honor?

2 EXAMINER WOODS: I'm sorry, page 19 of 31.

3 Page 20 of 31, lines 1 and 2.

4 Page 21, the Question 27, the answer from
5 line 18 on page 21 through page 22, line 5.

6 Page 23, the entire answer to Question
7 28.

8 Page 24, lines 12 and 13. It's partially
9 13. It's the phrase that ends "monthly."

10 And based upon my review over the lunch
11 hour, those would be the portions that I would find
12 are not supported by her curriculum vitae or her
13 experience.

14 MS. HIGHTMAN: Can you hold on for one second
15 so we can discuss something before we conclude our
16 discussion of this on the record?

17 EXAMINER WOODS: Okay. Ms. Murray.

18 MR. BINNIG: May I just say one thing, Your
19 Honor? If we are going to be putting off this witness
20 until the end tomorrow, which I think is a very
21 sensible suggestion, we really hadn't had a chance,
22 since we just got this this morning to compare this

1 with the Baros' testimony. There might be other
2 provisions that we might be moving to strike, and we
3 just want to give you notice we would like to do that
4 tomorrow if we have additional sections.

5 EXAMINER WOODS: Understood.

6 MR. BOWEN: Your Honor, Rhythms and Covad
7 call Terry L. Murray. She has been sworn previously.

8 (Whereupon Rhythms/Covad
9 Exhibits 1.0, 1.1, 1.2, 1.3
10 and 1.4 were marked for
11 purposes of identification as
12 of this date.)

13 T E R R Y L. M U R R A Y
14 called as a Witness on behalf of Covad Communications
15 Company and Rhythms Links, Inc., having been first
16 duly sworn, was examined and testified as follows:

17 DIRECT EXAMINATION

18 BY MR. BOWEN:

19 Q. Ms. Murray, do you have a copy in front
20 of you entitled "The Verified Statement of Terry L.
21 Murray on Behalf of Covad Communications Company and
22 Rhythms Links" dated May 15, 2000?

1 A. Yes, I do.

2 Q. Do you have any corrections to make to
3 this verified statement?

4 A. Yes, I do.

5 The first one appears on page 21, I
6 believe of the prefiled. This is part of the answer
7 to Question 18. And in my copy, at least, it begins
8 at line 4 of page 21 starting with the word
9 "identified." The remainder of that line would be
10 deleted and in line 5 delete through the word "its" so
11 the entire phrase "identified in the cost studies that
12 formed the basis for Ameritech Illinois' price board
13 for its," and substituted for that clause would be the
14 words "incurred by Ameritech Illinois when AADS, all
15 capitals, or any unaffiliated CLEC, capital C-L-E-C,
16 offers line-shared" and then continuing with the
17 sentence "retail AADS service."

18 Q. Ms. Murray, before you continue let me
19 just indicate for the record that I have passed around
20 the room copies of just the change pages you are
21 identifying here. And, Your Honor, for the record
22 official records already have a complete set with the

1 changes included in them as a single document. Go
2 ahead, Ms. Murray.

3 A. The remainder of the changes are all to
4 reflect the voluntary agreement described in my
5 supplemental verified statement of Rhythms and Covad
6 to remove the costing and pricing of fiber-fed loops
7 from this proceeding, and on my copy this would
8 involve deletions beginning at, I believe, page 27 in
9 the table. This isn't line number, but there is a
10 section in the table that's headed "Fiber-fed Loops."
11 Everything in the table that follows that which
12 includes all of the footnotes that appear at the
13 bottom of the page would be deleted.

14 Similarly, everything that is in the
15 continuation of the table at the top of page 28 would
16 be deleted, including Footnote 27 which is a footnote
17 to that portion of the table.

18 And then beginning at what I have as page
19 31, Question and Answer 27, which continues through on
20 page 32 and 33, also Question and Answer 28, beginning
21 on page 33, continuing on 34, 35, 36 and on 37 down to
22 what I have as line 18 of page 37, all of that

1 question and answer would be deleted so that the
2 testimony would pick up again at Question 29 on the
3 bottom of page 37.

4 And then finally there is one exhibit
5 that related to that portion of the material that was
6 labeled Rhythms/Covad Exhibit 1.2 attached to that
7 testimony, and the entirety of that exhibit would be
8 eliminated because it related only to the fiber
9 prices, costing prices. Those were all my changes.

10 Q. Just so we are clear, am I correct that
11 you are voluntarily withdrawing these portions so that
12 they can be heard and addressed and decided in the
13 line-sharing tariff proceeding, instead of here?

14 A. That is correct, as is reflected in my
15 supplemental verified statement.

16 Q. Okay. With those changes, if I were to
17 ask you the questions contained in your verified
18 statement today, would your answers be the same?

19 A. Yes, they would.

20 Q. And are those answers true and correct to
21 the best of your information and belief?

22 A. Yes. I should make one caveat to that.

1 My answers would be the same with respect to the
2 original cost study that Ameritech filed; obviously,
3 to the extent that we have a new cost study, the
4 answered would be affected.

5 Q. Now, do you have attached to your
6 verified statement, you mentioned Exhibit 1.2 already.
7 Do you also have an Exhibit 1.1 and 1.3?

8 A. Yes, I do.

9 Q. And were those two exhibits prepared by
10 you or under your direction and supervision?

11 A. 1.1 was prepared by me. 1.3 is actually
12 material that we received in discovery from Ameritech
13 Illinois. It's a portion of the cost study that was
14 produced in discovery.

15 Q. Okay. And with respect to at least 1.1,
16 is that exhibit true and correct to the best of your
17 information and belief?

18 A. Yes, it is.

19 Q. Do you also have before you a document
20 entitled "Supplemental Verified Statement of Terry
21 L.Murray on Behalf of Covad Communications Company and
22 Rhythms Links" dated June 22, 2000?

1 A. Yes, I do.

2 Q. Do you have any changes, additions or
3 corrections to that document?

4 A. Only one. The as-filed version in the
5 header for each page labeled this as Rhythms/Covad
6 Exhibit 1.1. It should be Exhibit 1.4.

7 Q. And with that correction, if I were to
8 ask you the questions contained therein today, would
9 your answers be the same?

10 A. Yes, again with the caveat that, to the
11 extent the cost study presented by Ameritech has
12 changed, where there are references to that cost
13 study, my answers would be changed to reflect the new
14 cost study.

15 Q. And is your testimony true and correct to
16 the best of your information and belief?

17 A. Yes, it is.

18 MR. BOWEN: Your Honor, at this time Rhythms
19 and Covad move for the admission of the verified
20 statement and the supplemental verified statement
21 together with Exhibits 1. 1 and 1. 3 attached to the
22 verified statement.

1 EXAMINER WOODS: Objections?

2 MR. BINNIG: No objections, Your Honor.

3 MR. REED: No objection.

4 EXAMINER WOODS: Exhibits are admitted
5 without objection.

6 (Whereupon Rhythms/Covad
7 Exhibits 1.0, 1.1, 1.2, 1.3
8 and 1.4 were admitted into
9 evidence.)

10 MR. BOWEN: And we are going to ask that you
11 mark, because you are receiving admission of the cost
12 studies of Ameritech as an official document in the
13 record, we are going -- we have provided to all the
14 parties before today, and just so the record is
15 complete from our perspective, we are going to supply,
16 mark as Rhythms/Covad Exhibit 1.5 the Rhythms and
17 Covad cost studies performed and sponsored by
18 Ms. Murray.

19 (Whereupon Rhythms/Covad
20 Exhibits 1.5 was marked for
21 purposes of identification as
22 of this date.)

1 MR. BOWEN:

2 Q. Ms. Murray, do you have before you the
3 document identified as Covad Exhibit 1.5?

4 A. Yes, I do.

5 Q. Do you have any corrections or changes to
6 that document?

7 A. The document as it is being presented now
8 already has the pages relating only to fiber deleted.
9 But the very first page, which is the summary page, we
10 have simply marked an "X" through the summary part
11 that related to fiber. So that would be a correcti on
12 reflecting the voluntary withdrawal of this material
13 and deferral of this issue to the tariff proceeding.

14 Q. And do I understand your testimony to be
15 saying that the full study has whole pages related to
16 fiber-fed costing?

17 A. That is correct. As this document was
18 distributed to Ameritech and to Staff, as I originally
19 understand it was distributed, provided, this document
20 or this file contained non-recurring cost pages for
21 fiber-related elements, and we have simply removed
22 those so as not to confuse the record here.

1 Q. And, Your Honor, I would note that -- I'm
2 sorry, I withdraw that. Is the information contained
3 on these page true and correct to the best of your
4 information and belief, Ms. Murray?

5 A. Yes, it is.

6 MR. BOWEN: Your Honor, I would note that
7 some of the information on this exhibit is information
8 that Ameritech Illinois deems confidential. And I
9 would ask whether they intend to maintain that claim
10 with respect to this exhibit.

11 MR. BINNIG: Your Honor, the client -- I
12 guess I would like to at least preliminarily keep this
13 confidential. The individuals at the client that
14 would be able to tell me whether they view this
15 specific information here should be treated as
16 confidential aren't in the room right now.

17 EXAMINER WOODS: We will just withhold it for
18 the time being. Obviously, during your cross if you
19 would spill it, it is not. So be careful.

20 MR. BOWEN: Well, whatever the designation,
21 Your Honor, we would move the admission of 1.5 at this
22 time.

1 EXAMINER WOODS: It will be admitted and we
2 will deal with confidentiality later.

3 (Whereupon Rhythms/Covad Exhibit
4 1.5 was admitted into evidence.)

5 MR. BOWEN: Now, pursuant to our agreement,
6 Your Honor, allowing Mr. Smallwood to augment
7 Ameritech's showing, I do have a couple of areas of
8 additional direct of Ms. Murray that are based on her
9 review of those documents handed out this morning.

10 EXAMINER WOODS: All right.

11 MR. BOWEN:

12 Q. Ms. Murray, I take it that you have had a
13 chance at least to glance through Mr. Smallwood's
14 additional costing submissions; is that correct?

15 A. Yes, as well I can do juggling binders in
16 the back of the room, I have done so.

17 Q. Is this the normal kind of analysis time
18 that you would expect to review a cost study?

19 A. No, although proceedings are getting
20 tighter every day.

21 Q. Closer and closer to real time?

22 A. Yes.

1 Q. Based on your review, is it possible for
2 you to characterize at a general level the disputes
3 that you perceive between Rhythms and Covad on the one
4 hand and Ameritech on the other concerning the
5 non-recurring cost of cross connects?

6 A. Yes. The new study that Mr. Smallwood
7 submitted today narrows the range of difference. Now
8 it appears that our disputes relate to just a few
9 areas. The biggest one is the number of cross
10 connects, the jumper placements and removals on the
11 non-recurring side. And even though he's winnowed
12 that down in this new study, it is still a higher
13 number of cross connects from a non-recurring
14 perspective, jumper placements and removals, than
15 Covad and Rhythms have proposed that the Commission
16 allow payment for based on the most efficient
17 configuration of splitter placement at the main
18 distribution frame, and I have relied on Mr. Riolo's
19 technical opinion on this additional redirect to make
20 clear the technical opinion.

21 We are now, with respect to what I will
22 characterize as the connect time for the physical

1 activity of placing jumpers, holding aside the number
2 of jumpers, we are very, very close, if not identical.
3 It appears indeed that Mr. Riolo's expert opinion on
4 which I relied in 1.5 is confirmed by the actual
5 experience of Ameritech in line sharing.

6 We still, however, differ with respect to
7 the time for disconnecting or removing the jumper. If
8 you look at the results summary on 1.5, line 3 is
9 placing jumper, line 4 is removing jumper. We have a
10 lower cost for removing than from placing. The new
11 cost study makes, what we believe to be, the erroneous
12 assumption that the time that Ameritech has
13 experienced in the trial for connecting jumpers, for
14 placing them, is the time that it would experience if
15 it were to actually disconnect jumpers. Again, I
16 relied on Mr. Riolo's technical opinion. He will
17 provide additional direct to explain why we believe
18 that that is incorrect. But that is a second area of
19 disagreement.

20 And the final area of disagreement on
21 work times, comes not in what I would characterize as
22 the physical activity of placing jumpers, but the

1 so-called administrative and coordination activities.
2 Here the times and the revised Ameritech cost study
3 remain considerably higher than the amount that had
4 been allotted in our study and supported by
5 Mr. Riolo's expert judgment. I will note that, not
6 only is there an issue here with respect to the actual
7 time it would take for administration and coordination
8 per jumper, but again since this time in
9 Mr. Smallwood's new study is sort of a lump sum that's
10 for all of the jumper placements and removals,
11 presumably part of the difference between us may be
12 the assumption on Ameritech's part that there were
13 simply more jumpers to be placed and removed and to be
14 coordinated.

15 So all of those issues seem to be where
16 we are still separated. If we had placement at a main
17 distribution frame, a lot less coordination would be
18 involved. We would have one hard wire tie cable and I
19 think Mr. Smallwood conceded that the number of jumper
20 placements and removals would be less. So that
21 summarizes the remaining differences between us.

22 Q. Now, have you had a chance to look at any

1 revisions to the reported splitter cost when Ameritech
2 Illinois owns the splitter?

3 A. Yes, I have.

4 Q. And what -- can you characterize your
5 analysis that you have been able to perform on that
6 change?

7 A. Well, let me break it into the investment
8 and the expenses. First, I will simply say that in my
9 verified statement I had proposed to this Commission
10 that it use the price of 89 cents per splitter line
11 report that Southwestern Bell Texas, the local
12 exchange carrier subsidiary of SBC in Texas had pur
13 forward in a line-sharing arbitration there, and that
14 we had accepted. As of the time of that arbitration,
15 and it was made clear on the record when I was
16 present, SBC had already made this decision to go to
17 the different type of splitter with the test point
18 access. It did not propose a higher price than 89
19 cents per port.

20 So I am very uncomfortable, without an
21 additional opportunity to review backup for these
22 considerably higher investments, with the notion that

1 there is any justification for vastly increasing the
2 investment. The investment has gone up, and I think I
3 can say this without revealing the proprietary number,
4 the relative investment from the original study to the
5 new study has increased 21 percent. And there is no
6 showing here as to the reasonableness of that increase
7 on the investment or the benefit to companies such as
8 Rhythms and Covad from the choice of that sort of
9 splitter. Again, Mr. Riolo will address this from a
10 technical perspective.

11 What is really interesting is that the
12 price has also gone up, approximately 21 percent,
13 simply because of the different kind of investment.
14 Mr. Riolo will explain to you from a technical
15 perspective that there are no more tie cables to
16 install, the installation of this different type of
17 splitter is no more difficult nor is the maintenance
18 than the original splitter. This is totally an
19 artifact of the factor approach that Ameritech has
20 used to come up with a proxy for the expenses.

21 And now we are farther apart than ever on
22 the expenses relating to the splitter, simply because

1 we have done this ratio approach with a factor, that
2 Mr. Smallwood admitted, was developed broadly before
3 line-sharing was ever there for the circuit equipment
4 accounting. We now have an increase, even further
5 divergence, on the splitter expense than we had to
6 begin with.

7 And we learn for the first time -- we
8 have never seen the backup for the factor development,
9 but we learned for the first time when Mr. Smallwood
10 was on the stand that that includes things like power,
11 which a splitter doesn't even use. It includes
12 probably things like miscellaneous expenses for HVAC
13 which are caused for the circuit equipment account
14 because the power use generates heat which has to be
15 dissipated in the central office. Again, that
16 wouldn't apply to a passive device like the splitter.

17 So the new study confirms and re-enforces
18 the analysis in our testimony that this factor
19 approach, using a factor which was developed without
20 including a splitter in the pool of cost, is a very,
21 very inappropriate way to come up with a TELRIC-based
22 price for a splitter. And that concludes my

1 discussion of the splitter changes.

2 Q. Now, have you also reviewed
3 Mr. Smallwood's provision of backup materials and
4 recalculations of cross connects based on the
5 so-called IDF configuration?

6 A. Yes, I have.

7 Q. Do you agree with Mr. Smallwood's
8 approach to this costing object?

9 A. No, I do not. The new cost study, and I
10 believe this is public now, in the record, gives an 80
11 percent weight to instances with an intermediate
12 distribution frame, a 20 percent weight to instances
13 without. It is our position that there should be a
14 one hundred percent weight to instances without. And
15 I base that position, not only on Mr. Riolo's
16 technical opinion about what is possible in
17 forward-looking network, but also on the FCC's TELRIC
18 methodology which specifically cites a reconstructed
19 local network, not, as Mr. Smallwood implies, the
20 basis for his new study being somehow how Ameritech
21 would grow or expand its existing central offices
22 without ripping them down.

1 And if there were any doubt whatsoever as
2 to what the FCC meant by this, I would point the
3 Commission and the arbitrator to what is commonly
4 called the Advanced Services Order. I think it's the
5 First Report and Order in the Advanced Services
6 proceeding at Paragraph 42 where the FCC specifically
7 prohibited incumbent local exchange carriers from
8 requiring competitors to interconnect at an
9 intermediate point such as an intermediate
10 distribution frame where a direct connect is
11 technically feasible.

12 For both of these reasons, my
13 understanding of the TELRIC methodology, and
14 Mr. Riolo's confirmation to me of what is an official
15 forward-looking technology, is such that the new study
16 does not give low enough weight to the idea of
17 scenario. The weight should have been zero on that
18 and zero percent on the no idea scenario.

19 MR. BINNIG: Your Honor, if I could just
20 interject, I do want to move to strike that answer and
21 object on the grounds it goes beyond the scope of what
22 we agreed to. The 80/20 split did exist in the cost

1 study that was attached to Mr. Smallwood's testimony
2 originally. This is not a new development in the cost
3 study that were just submitted as Exhibits 4.1 and
4 4.2.

5 EXAMINER WOODS: I think she was responding,
6 not so much to the 80/20 split, as to the information
7 that was elicited on cross as a result of the study
8 that he submitted concerning what exactly went into
9 that 80/20 split. So I am going to allow it.

10 MR. BOWEN:

11 Q. Does that complete your additional direct
12 testimony?

13 A. Yes, it does.

14 MR. BOWEN: Ms. Murray is available for cross
15 examination.

16 EXAMINER WOODS: Mr. Binnig.

17 CROSS EXAMINATION

18 BY MR. BINNIG:

19 Q. Thank you, Your Honor. Good afternoon,
20 Ms. Murray. I do have a clarifying question about the
21 change you made to your testimony.

22 A. Yes.

1 Q. Are any of your proposed prices, now that
2 you have eliminated the fiber-fed portion, do any of
3 those proposed prices depend on or were they developed
4 from the HBSON model?

5 A. No.

6 Q. So as far as you are concerned, that
7 model was just not part of that issue and not an issue
8 in this proceeding?

9 A. That is correct. That's why I withdrew
10 the material describing it.

11 Q. If we could look at what I think is, if I
12 have it right, Rhythms/Covad Exhibit 1.5?

13 A. Okay.

14 Q. There are a number of -- look at the
15 second page.

16 A. Yes.

17 Q. Already a number of sources are here that
18 come from some place other than Ameritech Illinois;
19 isn't that correct?

20 A. That is correct.

21 Q. And a couple of these, for example, the
22 splitter ACF, comes from, it says, HAI model

1 calculation?

2 A. Yes.

3 Q. Is that referring to the Hatfield model?

4 A. Yes, it is.

5 Q. Now, if we can go to the next page
6 following?

7 A. Yes.

8 Q. Similar entry, again, line 7, splitter
9 ACF, HAI calculation?

10 A. Yes.

11 Q. And that is the Hatfield model?

12 A. That is the Hatfield model.

13 Q. And then a number of entries from Bell
14 Atlantic, is that correct, New York discovery
15 response?

16 A. Yes.

17 Q. And a number of entries from where it
18 says Engineering Subject Matter Estimate?

19 A. Yes.

20 Q. Is that Mr. Riolo?

21 A. Mr. Riolo is a member of the engineering
22 team that advised us and he is available to be

1 cross-examined on this material.

2 Q. Now, Ms. Murray, you have testified in a
3 number of arbitration proceedings on behalf of CLECs
4 in the past; is that correct?

5 A. Yes, I have.

6 Q. And you have never testified in an
7 arbitration proceeding on behalf of an incumbent LEC?

8 A. No, nor have I ever been requested to do
9 so by an incumbent LEC.

10 Q. In terms of the arbitration proceedings
11 in what I will call the five state Ameritech region,
12 you testified in 1996 on behalf of MCI both in
13 Wisconsin and the Illinois arbitrations; is that
14 correct?

15 A. I remember testifying in both of those
16 states. I will take it subject to looking at my
17 resume' that it was 1996. The years are blurring
18 together.

19 Q. And you recall that in those two
20 arbitrations your primary recommendation in the
21 testimony you gave was that those two state
22 commission's should adopt the Hatfield model, the

1 version that then existed for pricing unbundled
2 network elements?

3 A. Yes.

4 Q. And both of those state commissions
5 declined to adopt the Hatfield model; is that correct?

6 A. That is my understanding, yes.

7 Q. And, in fact, to your knowledge to this
8 day none of the state commissions in the five state
9 Ameritech region have adopted the Hatfield model for
10 pricing unbundled network elements; isn't that
11 correct?

12 A. I only have direct knowledge of the two
13 cases in which I participated. So I have answered
14 what I know.

15 Q. And you don't know for the other states?

16 A. I haven't investigated the basis for
17 their prices, no.

18 Q. Do you know whether any state has adopted
19 the Hatfield model for pricing unbundled network
20 elements?

21 A. Yes, I do, and there are states that
22 have.

1 Q. Let's turn to, I guess, what is Exhibit
2 1.0 which is, I think, your direct testimony here.
3 Before I do that, did you participate in the
4 line-sharing arbitration involving Rhythms and Covad
5 in California?

6 A. Yes, I did.

7 Q. So I take it you are familiar with the
8 final arbitrator's report in that proceeding?

9 A. I am familiar with what's called the
10 final arbitrator's report which is actually in effect
11 a proposed decision. There is no final decision in
12 California.

13 Q. I think that's already been stated on the
14 record. You are familiar with that docket?

15 A. Yes, I am.

16 Q. And in that proceeding the final
17 arbitrator's report rejects Covad and Rhythms'
18 proposed pricing, isn't that correct, for line
19 sharing?

20 A. In some but not all respects, that is
21 correct.

22 Q. And in particular they rejected use of

1 both the HBSON model and the model that has too many
2 letters in the acronym for me to state here, but the
3 model that Mr. Riolo refers to?

4 A. The HBSNRCM, both of which are fiber-only
5 models, yes.

6 Q. And the final arbitrator's report
7 rejected use of those models in part because it was
8 based on the Hatfield model, and the California
9 Commission had rejected use of the Hatfield model for
10 the pricing of UNEs; is that correct?

11 MR. BOWEN: Objection, Your Honor, the
12 witness has testified that both those models are based
13 on Fiber 50LC configurations. She has voluntarily
14 withdrawn any of those issues from this particular
15 case, so I don't see any relevance in exploring the
16 basis for that treatment in California here. That's
17 more properly heard in the line-sharing portion.

18 Q. I can ask the question differently. Are
19 you aware, Ms. Murray, that the California Commission
20 has rejected the use of the Hatfield model for pricing
21 unbundled network elements?

22 A. I am aware that the California Commission

1 rejected use of the Hatfield Model Version 2.2.2 which
2 is vastly earlier than the version that we used for
3 the very limited purpose of figuring out, using a
4 simple public formula, what an annual charge factor is
5 with a given depreciation rate and a given cost of
6 money. I wouldn't even call that using the Hatfield
7 model. It is simply public and your cost study
8 formula is not. So we used something that was in the
9 public domain.

10 Q. In terms of the model that you take
11 inputs from that we just looked at on Covad Rhythms
12 Exhibit 1.5, the HAI model, would you agree with me
13 that the California Commission has not adopted the HAI
14 model for pricing unbundled network elements, either,
15 correct?

16 A. It has neither adopted nor rejected it.
17 It is before the Commission in a pending arbitration
18 proceeding involving GTE, and actually I think that's
19 actually an earlier version. But, again, we are
20 really not talking about the model. We are talking
21 about a very routine formula that all cost analysts
22 use. We simply gave you a public reference for that

1 formula. It's, by the way, virtually identical to the
2 formula used in the FCC's public universal service
3 model.

4 MR. BINNIG: Your Honor, I would move to
5 strike the portion of the answer after her discussion
6 of whether the California Commission had adopted the
7 HAI model.

8 EXAMINER WOODS: We had pretty much leeway
9 with the first two witnesses, letting them go on. I
10 think all witnesses would be admonished to please
11 simply answer the question. If there is a point that
12 your counsel wishes to bring out on redirect or that
13 you wish to bring out on redirect, you will have that
14 opportunity. The answer will be stricken.

15 MR. BINNIG:

16 Q. Now, I take it, Ms. Murray, having
17 testified in prior arbitrations that you understand
18 that this arbitration is to be conducted under Section
19 252 of the Federal Telecommunications Act of 1996?

20 A. As a lay person. I am not testifying as
21 a legal expert.

22 Q. As a lay person do you understand -- do

1 you have an understanding or have you read the
2 standards for arbitration set out in Section 252(c) of
3 the Act?

4 A. I believe so although I don't have the
5 sections memorized by numbers so.

6 Q. I will give you a copy because I think
7 there is another provision of the Act that we are
8 going to be referring to as well. And do you see that
9 section 252(c) sets out the standards for arbitration?

10 A. I see that heading.

11 Q. And that provision provides that in
12 resolving by arbitration under Subsection B any open
13 issues and imposing conditions upon the parties to the
14 agreement, the Commission shall, and it lists three
15 items there?

16 A. Again, I see those words.

17 Q. And isn't Item 2 a standard that says the
18 state commission shall establish any rate for
19 interconnection services or network elements according
20 to Subsection D?

21 A. You have read what's on the page in front
22 of me, yes.

1 Q. And Subsection D(1) of the Act indicates
2 that determinations by state commissions of the just
3 and reasonable rate for interconnection facilities and
4 equipment for purposes of Subsection C(2) of Section
5 251 and the just and reasonable rate for network
6 elements for purposes of Subsection C(3) of that
7 section, is this the pricing standard for those two
8 items?

9 MS. BOWEN: Ms. Murphy, before you answer,
10 Rhythms and Covad will stipulate that the Act says
11 what it says, Your Honor. I don't know if we are
12 leading up to an actual question or not, but I think
13 it's frankly a waste of time to ask the witness to
14 agree that the Act says what it says.

15 MR. BINNIG: I am trying to get her
16 understanding of what she thinks the pricing rules
17 here are that apply in this arbitration.

18 MR. BOWEN: Then he should ask that question
19 directly, Your Honor, as opposed to reading the
20 statute.

21 EXAMINER WOODS: Ask her.

22 MR. BINNIG:

1 Q. Is it your understanding, Ms. Murray,
2 that the pricing standards that apply to this
3 arbitration require this Commission to set a rate for
4 network elements, which is what we are talking about
5 here, correct?

6 A. That is my understanding, yes.

7 Q. It requires it to set that rate based on
8 the cost of providing the network element determined
9 without reference to a rate of return or other rate
10 base proceeding; is that your understanding?

11 A. It is my understanding that that is part
12 of the language, and that language has been
13 interpreted by the FCC to mean TELRIC. I am not
14 providing a legal opinion, obviously. I can agree
15 that what you are pointing me to here is part of the
16 words in the Act.

17 Q. Are you familiar with the FCC's TELRIC
18 provisions, TELRIC rules, that were attached to the
19 First Report and Order?

20 A. Yes, I am.

21 Q. Would you agree with me that those TELRIC
22 rules do not refer anywhere to retail rates or retail

1 revenues?

2 A. No, I would not.

3 Q. Let's go for a second now to Section 706.

4 Could you refer to Section 706, I think, perhaps it's
5 page 5 of your testimony, no, page 3 of your testimony
6 at lines --

7 EXAMINER WOODS: Excuse me, Section 706 of
8 what?

9 MR. BINNIG: Section 706 of the 1996 Federal
10 Telecommunications Act.

11 THE WITNESS: Yes.

12 MR. BINNIG:

13 Q. I believe you will find a copy of that in
14 the copy of the Act you have up there.

15 A. Yes.

16 Q. And on page 3 of your testimony,
17 Rhythms/Covad Exhibit 1.0, you indicate in Question 5
18 you believe there are other public policy goals or
19 concerns that are important to consider in setting
20 prices for line-sharing elements and related
21 interconnection arrangements; do you see that question
22 in your testimony?

1 A. Yes, I do.

2 Q. And your answer is yes and then you cite
3 Section 706 of the Act; is that correct?

4 A. That is correct.

5 Q. Now, I know you are not a lawyer so I am
6 not going to get into a legal debate about whether
7 Section 706 applies at all in this arbitration, but I
8 just want you to look at Section 706 for a moment and
9 I want you to tell me whether Section 706 provides
10 that advanced services -- the deployment of advanced
11 services should be encouraged through subsidies?

12 A. Actually, I don't think that Section 706,
13 at least in the part that I see, addresses that one
14 way or the other. It says, "in a manner consistent
15 with the public interest, convenience and necessity,"
16 and has several other items listed, none of which is
17 subsidies. So it doesn't say anything one way or the
18 other.

19 Q. The word "subsidy" doesn't appear t here;
20 is that correct?

21 A. No, it does not.

22 Q. And, in fact, part of the provision that

1 you were reading, in addition to being consistent with
2 the public interest, doesn't Section 706 also refer
3 to -- doesn't it refer to measures that promote
4 competition in the local telecommunications market or
5 other regulating methods that remove barriers to
6 infrastructure investment?

7 A. It certainly does refer to both of those
8 things, and the FCC has explicitly found that one
9 measure to promote competition is indeed a zero price
10 for the high frequency portion of the loop.

11 Q. Well, we can debate about what the FCC
12 has said in the Line Sharing Order in a little bit,
13 but I take it that's what you are referring to when
14 you say the FCC has made that conclusion?

15 A. I am referring to the Line Sharing Order.
16 I am also referring to the recent Access Charge Order.

17 Q. What particular provision of the Line
18 Sharing Order are you referring to?

19 A. I believe I have quoted that in my
20 testimony. If you look at page 17 of my testimony,
21 Answer 16, there is an extensive quotation that says,
22 "We conclude that in arbitrations and in setting

1 interim prices, states may require that incumbent LECs
2 charge no more to competitive LECs for access to
3 shared local loops than the amount of loop costs the
4 incumbent LEC allocated to ADSL services when it
5 established its interstate retail rates for those
6 services. This is a straight-forward and practical
7 approach for establishing rates consistent with the
8 general pro-competitive purposes underlying the TELRIC
9 principles," and that quotation goes on to say that we
10 find that establishing the TELRIC of the shared line
11 in this manner does not violate the prohibition of
12 Section 51-505(d)(1) of our rules and it continues.
13 That section is one of the rules that you referenced
14 to me earlier attached to the First Report and Order
15 implementing the TELRIC methodology.

16 Q. And that quote you took from Paragraph
17 139?

18 A. That quote is from Paragraph 139, and
19 then I have several quotes I am not going to belabor
20 the record by repeating all of my prefiled testimony
21 both in this and in my supplemental testimony that
22 clarify that incumbents allocated zero and that the

1 FCC finds zero to be a reasonable and pro-competitive
2 price.

3 Q. Well, I just want to focus on this
4 paragraph. You are aware, are you not, Ms. Murray,
5 that Ameritech Illinois, which is the incumbent LEC in
6 this proceeding, has never provided a retail DSL
7 service?

8 A. I am aware of that discovery response,
9 yes.

10 Q. Going back to Paragraph 706 for a second,
11 Ms. Murray?

12 A. Yes. Section 706 you are referring to?

13 Q. Did I say paragraph? I'm sorry. Section
14 706 of the Federal Telecommunications Act of 1996.
15 Would you agree with me that that paragraph does not
16 provide that a particular advanced services technology
17 should be favored over other advanced services
18 technologies?

19 A. I see nothing in that section describing
20 favoring or disfavoring any technology.

21 Q. And that section doesn't identify any
22 particular type of advanced services technology; isn't

1 that correct?

2 A. That's correct. I haven't alleged that
3 it does.

4 Q. And you agree with me that there are a
5 number of other types of advanced services technology
6 that are in the marketplace today other than xDSL
7 service?

8 A. It depends. When you say marketplace to
9 an economist, you are inviting a market definition
10 issue. In some markets there are other competing
11 technologies. In others, there are not.

12 Q. Let me rephrase it to eliminate,
13 hopefully, that concern. You are aware that there are
14 competitive providers of advanced services using cable
15 modem service; are you not?

16 A. I am aware that cable modems exist in
17 some areas, yes.

18 Q. And you are also aware that there are
19 advanced services providers who use a wireless
20 broadband technology to provide advanced services;
21 isn't that correct?

22 A. I am aware that at least on a limited

1 basis that technology exists.

2 Q. Are you familiar with any industry
3 studies of the current subscriber accounts for those
4 type of technologies compared to xDSL service?

5 MR. BOWEN: Objection to relevance, Your
6 Honor. I don't see how, whether or not there is
7 wireless broadband services or cable modems out there,
8 has any relevance at all to what we are talking about
9 here which is an arbitration line-sharing for
10 Ameritech Illinois.

11 EXAMINER WOODS: I am going to overrule that.
12 She can answer.

13 THE WITNESS: A. I have seen some very
14 general industry studies. I haven't seen anything
15 specific to Ameritech Illinois' service territory.

16 MR. BINNIG:

17 Q. The general studies that you have seen,
18 have they looked at the U.S. market in its entirety,
19 national market?

20 A. I think some have looked at the U.S.
21 market. Some might even be broader than that.

22 Q. Do they -- the ones that looked at the

1 U.S. market, do they generally show more subscribers
2 of cable modem broadband services than subscribers of
3 xDSL services?

4 A. If you are talking about a snapshot in
5 time today, that is generally true. On a broad market
6 basis that is not true for most of the studies that
7 forecast penetration if regulatory barriers to DSL are
8 removed.

9 Q. Now, let's move to -- you may think we
10 are going backward but we are actually making
11 progress. Let's move to page 2 of Exhibit 1.0. and
12 beginning at line 10, one of the things you say is the
13 purpose of your testimony, the first item, is that you
14 are describing the array of unbundled network elements
15 and interconnection arrangements that the Commission
16 should require Ameritech Illinois to make available to
17 Rhythms and Covad; do you see that?

18 A. Yes, I see that language.

19 Q. And I take it, Ms. Murray, that you are
20 not a network engineer; is that correct?

21 A. No, I am not.

22 Q. And you don't have an engineering degree;

1 is that correct?

2 A. No, I do not.

3 Q. You have never worked in a central

4 office; is that correct?

5 A. No, although I have actually run a jumper

6 and deloaded a cable.

7 EXAMINER WOODS: How long did it take you?

8 THE WITNESS: Actually, first -- you want to

9 know?

10 EXAMINER WOODS: No.

11 MR. BINNIG:

12 Q. You have never had responsibility for

13 provisioning unbundle network elements; is that

14 correct?

15 A. No.

16 Q. That's correct?

17 A. Oh, I'm sorry. Yes, it is correct that I

18 never have, to make the record very clear.

19 Q. And you have never had responsibility for

20 working on outside plant; is that correct?

21 A. I have never had responsibility for

22 working on outside plant.

1 Q. Going back to Section 706 of the Federal
2 Telecommunications Act for a second and the subject of
3 other broadband services technologies, other advanced
4 services technologies, as you sit here today can you
5 identify for me any cable service provider or wireless
6 provider who give away broadband access to their
7 systems for a zero price?

8 A. I cannot identify any provider of any
9 service that gives away a service that has a cost,
10 except on a promotional basis. And, in fact, at least
11 my experience with my own cable provider is that there
12 are indeed giveaways from time to time where there is
13 a cost incurred but on a promotional basis. The
14 provider does not charge for the cost. But it is my
15 understanding that cable providers are not at this
16 time generally subject to unbundling provisions under
17 the Act.

18 Q. Let me ask this. Are you familiar with
19 the Ninth Circuit's decision last week in the City of
20 Portland's case?

21 A. Only at the newspaper reporting level.

22 Q. Is your understanding at that level that

1 the Ninth Circuit classified cable modem service as a
2 telecommunications service?

3 A. I don't think I would trust newspaper
4 reports for what it went to classification.

5 Q. So you don't even have that understanding
6 from the newspaper report that you read?

7 A. I don't think the reports were that
8 specific. They generally said that the ruling was in
9 AT&T's favor, and they were at that high level of
10 generality.

11 Q. Let's go back to page 6 of your
12 testimony, beginning on line 1.

13 A. This is the direct still?

14 Q. This is still the direct, Exhibit 1.0.

15 A. Okay.

16 Q. And you identify in the first bulletpoint
17 beginning at line 3 there your belief that the
18 Commission should require Ameritech Illinois to offer
19 competitors a full menu of unbundled network elements
20 in their interconnection arrangements that reflect all
21 technically feasible alternatives for unbundling
22 network functionalities related to line sharing; do

1 you see that?

2 A. Yes.

3 Q. You are familiar with both the interim
4 arbitration award in Texas as well as the final
5 arbitrator's report in California?

6 A. I am aware of both of those.

7 Q. And you are aware that both of those
8 documents rejected Covad and Rhythms' request for a
9 menu of splitter configurations?

10 A. I don't think that I would characterize
11 either of those reports as definitively rejecting it.
12 The California arbitrator's report, which isn't even a
13 final order, simply says that at this time, pending a
14 permanent proceeding that's about to happen any day
15 now, they are not going to order additional options.
16 And I think the Texas order is about that level as
17 well.

18 Q. Is it fair to say, though, that neither
19 one of those orders adopted Rhythms and Covad's
20 request for the menu of three different splitter
21 configurations, isn't it?

22 A. I think it's fair to say that they did

1 not order that at this time.

2 Q. Let's turn back for a second to page 5 of
3 your testimony beginning at line 10, going through
4 line 13, actually through line 14. You have a
5 provision there that says the manner in which the
6 Commission resolves issues related to the terms,
7 conditions and prices for line-sharing will
8 substantially effect the ability of new entrants to
9 compete with Ameritech's data affiliate, especially in
10 providing residential and small business customers
11 with DSL based services; do you see that?

12 A. Yes, I do.

13 Q. I am going to ask you a hypothetical,
14 Ms. Murray, and it is as follows. If the Commission
15 were to provide Rhythms and Covad with the exact same
16 line-sharing terms, conditions and prices that are
17 provided to AADs, Ameritech's data affiliate, wouldn't
18 you agree that Rhythms and Covad would be able to
19 compete with that data affiliate?

20 A. Not at all. I think I have laid that
21 out. I don't want to delay this hearing by repeating
22 pages and pages of my direct and supplemental

1 testimony as to why it is not the same when you move
2 money from one corporate pocket to another and when
3 you give another competitor a real cost.

4 Q. So --

5 A. That's part of the answer.

6 MR. BOWEN: Well, can she complete her
7 answer?

8 MR. BINNIG: The question was did she agree
9 with me; she said she didn't.

10 MR. BOWEN: I think she is allowed to explain
11 why she doesn't agree, Your Honor. That has been the
12 practice in this case so far.

13 EXAMINER WOODS: I think she did.

14 MR. BOWEN: She said that was part of her
15 answer. I will do it on redirect if I need to.

16 MR. BINNIG:

17 Q. So is it fair to say, Ms. Murray, that in
18 your view if the Commission were to provide Rhythms
19 and Covad with the exact same line-sharing terms,
20 conditions and prices that were provided to
21 Ameritech's data affiliate, that that is not a level
22 playing field?

1 A. Yes. And you allowed me to answer with
2 respect to prices before. With respect to terms and
3 conditions, because the terms and conditions could be
4 tailored to AADS's business plans and strategies, it
5 would not be a level playing field to impose those
6 terms and conditions on others with different
7 strategies.

8 Q. As you sit here today, can you provide me
9 with any facts that indicate that the terms and
10 conditions that Ameritech Illinois has tariffed and
11 provided to AADS in fact are tailored to AADS's
12 business plans?

13 A. I will give you one example. It is my
14 understanding that AADS, perhaps because of its
15 advantages of being affiliated with the incumbent, has
16 been using an integrated DSLAM splitter configuration,
17 and that there is a virtual collocation set up, in
18 which I believe it is the case, that the incumbent
19 through a unique provision of the merger agreement can
20 operate back and forth on the AADS equipment versus
21 Ameritech's equipment. Because line-sharing was
22 denied to unaffiliated competitors such as Covad and

1 Rhythms, those companies set up their businesses with
2 non-integrated DSLAMs and splitters, made arrangements
3 with their vendors to get those kinds of DSLAMs and
4 splitters, and would have to re-train and deal with
5 their personnel differently.

6 There is also the issue of the
7 differential access to the different parts of the
8 central office. All those things mean that terms and
9 conditions that work well for a company that has an
10 integrated DSLAM and splitter, do not work well for a
11 company that has separate splitters and DSLAMs. And
12 there are disadvantages to Covad and Rhythms for being
13 forced to change their strategies to adopt an
14 integrated DSLAM splitter strategy, re-train their
15 personnel, renegotiate their vendor contracts, and so
16 on.

17 So that would be one example that giving
18 both companies the same terms and conditions doesn't
19 work if those terms and conditions were designed to be
20 optimized to one company's preferred equipment
21 configuration and not the others.

22 Q. Ms. Murray, are you aware that as we sit

1 here today AADS does not even provide DSL service for
2 the line-sharing loops?

3 A. I have seen contradictory things in the
4 testimony. I believe we have heard testimony and I
5 have seen written testimony that AADS has integrated
6 DSLAMs and splitters. So even if AADS does not
7 currently provide line-shared service, obviously, it
8 is possible for Ameritech to set up terms and
9 conditions that benefit AADS's choice to go with the
10 integrated DSLAM splitter, a choice that was
11 precommitted against by Covad and Rhythms when they
12 didn't have the option of line-sharing.

13 Q. Have you ever seen AADS's business plan?

14 A. No, but as I believe others have
15 testified, I heard Ms. Carter's testimony, I have seen
16 what's in the public domain about the decision, in
17 fact including in your testimony here, about the
18 decision of AADS to use an integrated DSLAM splitter.
19 And, of course, because AADS, by your own data
20 responses, did not previously provide line-shared DSL,
21 it doesn't have the commitment problems that were
22 forced on unaffiliated competitors who were denied

1 line-sharing. So I can infer the business plan from
2 all of those facts.

3 Q. And you were here for the testimony of
4 Ms. Carter. I take it you will agree with me that
5 Ms. Carter testified that she also had never seen
6 AADS's business plans?

7 A. That is correct. She testified that she
8 had been relying on public statements made in
9 collaborative forums in which AADS participated.

10 Q. And you have never participated in any of
11 those public forums?

12 A. That is correct; I have not. For that
13 fact I am relying on Ms. Carter's participation and
14 the record in this proceeding.

15 Q. Let's go to back to page 5, Exhibit 1.0.
16 And I want to call your attention to your testimony at
17 lines 5 through 10.

18 A. Yes.

19 Q. Actually, let me pass on that. Move to
20 page 9 of your testimony. You have withdrawn that,
21 okay. Is it your opinion with respect to fiber-fed
22 loops that the Commission should adopt in theory in

1 this arbitration a requirement that Ameritech provides
2 line-sharing over fiber-fed loops?

3 A. Yes, that position is laid out clearly in
4 my verified supplement statement in agreement with
5 Commission Witness Graves.

6 Q. Do you have a copy of the FCC's Line
7 Sharing Order with you?

8 A. I don't have it up here.

9 Q. This is my only copy I have here right
10 now, so I am going to have to share it with you. But
11 I want to recall your discussion to Paragraphs 91 and
12 92 of the Line Sharing Order?

13 A. Yes.

14 Q. And these are the paragraphs that you
15 rely on for your belief that the Commission should in
16 theory or at least adopt as matter of theory or policy
17 in this case a requirement that Ameritech Illinois be
18 required to provide line-sharing over fiber-fed loops;
19 is that correct?

20 A. These are certainly paragraphs that
21 relate to that recommendation, yes.

22 Q. I have got an extra copy here so I will

1 give you that, and follow with me?

2 A. Sure.

3 Q. And if you look at the second sentence of
4 Paragraph 91?

5 A. Yes.

6 Q. It says, "Are subloop unbundling rules
7 and presumptions allowing requesting carriers to
8 access copper wire relatively close to the subscriber
9 which is critical for competitive carriers to offer
10 services using xDSL technology over the high frequency
11 network elements; do you see that?

12 A. Yes, I see that.

13 Q. And is it your understanding that the
14 subloop unbundling ruling being referred to there or
15 the subloop unbundling rules that were promulgated in
16 what's commonly referred to as the UNE Remand Order?

17 A. The citation in Footnote 209 is to local
18 competition, the Third Reporting Order which is what I
19 believe is commonly referred to as the UNE Remand
20 Order.

21 Q. And those subloop unbindling rules
22 require only that ILECs provide access to subloops at

1 accessible terminals in the outside plant; is that
2 correct?

3 A. I would be really careful about
4 characterizing it as only. I believe there is a
5 lengthy affirmative discussion in the forward portion
6 of my testimony discussing the UNE remand rules with
7 respect to collocation at the remote terminal and
8 other allowable points. And rather than agreeing to
9 some encapsulated characterization, I would stand by
10 my testimony.

11 Q. Well, maybe we can turn to the actual
12 rule. Could you turn to -- do you have a copy of
13 the --

14 A. Are you talking about --

15 Q. The UNE Remand Order?

16 A. No, I don't have that with me.

17 Q. I want to show you the rule adopting
18 specific unbundling requirements, 51.319 in the UNE
19 Remand Order. If you could turn to 51.319(a) which is
20 entitled "Local Subloop" and (a)(2) which is entitled
21 "subloop." Do you see that?

22 A. Yes, I see that.

1 Q. And could you read the first sentence of
2 that for me?

3 A. The first sentence under "Subloop" reads,
4 "A subloop network element is defined as any portion
5 of the loop that is technically feasible to access at
6 terminals in the incumbent LEC's, that's capital
7 L-E-C's, outside plant, including inside wire."

8 Q. Thank you. And if you could turn back to
9 the Line Sharing Order to the unbundling requirement
10 that the Line Sharing Order adds, if you turn to
11 Appendix B of that, you will see that there is a new
12 UNE being added to 51.319? It's 51.319(h).

13 A. Yes, I have that portion.

14 Q. And 51.319(h) is entitled "The High
15 Frequency Portion of the Loop," is that correct?

16 A. Yes, it is.

17 Q. And 51.319(h)(1) defines the high
18 frequency portion of the loop. I will just read it.
19 It says, "The high frequency portion of the loop
20 network element is defined as the frequency range
21 above the voice band on a copper loop facility that is
22 being used to carry analog circuit-switched voice band

1 transmissions." Did I read that correctly?

2 A. You read the words on the page.

3 Q. And you would agree that's how the FCC
4 defines the HFPL under the rule requiring the
5 unbundling of the HFPL; is that correct?

6 A. That is how the FCC defines one of the
7 things that is required in the Line Sharing Order.
8 That is by no means the only thing that is required in
9 the Order, as you pointed me to Paragraphs 91 and 92
10 and other parts of the Order.

11 Q. Isn't it your understanding that Section
12 51.319 of the FCC's rules defines the specific UNEs
13 that incumbent LECs are required to unbundle?

14 A. That, you know, is not a legal opinion
15 but a lay opinion, is a place where there is specific
16 unbundling requirements. But in the previous answer I
17 pointed you to the UNE remand requirement or
18 collocation at the remote terminal which specifically
19 requires placement of DSLAMs on co-equal terms. And
20 as I pointed out, under a new technology that the FCC
21 did not consider in either the Line Sharing Order or
22 the UNE Remand, SBC is now placing the DSLAM

1 functionality on line cards in the remote terminal,
2 and that changes the whole ball game.

3 Q. Let's move to page 16 of your exhibit
4 1.0.

5 A. Sixteen?

6 Q. Sixteen. And, actually, it starts on
7 page 15, Question and Answer 14 starting on line 18 of
8 page 15.

9 A. Just a second. I seem to have these a
10 little out of order here, Question and Answer 14.

11 Q. Yes. In the last sentence of the first
12 paragraph of this answer, it appears starting at line
13 1 through 3, you are talking about, what I would call,
14 the recurring cost of the loop there; aren't you?

15 A. Yes.

16 Q. And you state at lines 1 through 3 on
17 page 16, that "In economic parlance, the vast majority
18 of the costs of providing various portions of the loop
19 bandwidth are joint or shared costs;" do you see that?

20 A. Yes.

21 Q. And I take it, it's your opinion that
22 that definition of joint costs is consistent with the

1 FCC's use of the term "joint costs" in its First
2 Report and Order?

3 A. Yes. And with the use of joint costs in
4 the approval of the SBC-sponsored Pacific Bell retail
5 interstate ADSL tariff.

6 Q. And so to make sure I understand, you
7 believe that the recurring costs of the loop, because
8 it's now being shared by two services, is a joint
9 cost; is that fair?

10 A. To be very careful, it's not merely the
11 fact that it's shared but the fact that the cost does
12 not change, whether the incumbent provides one, both,
13 or both of the services, either one or both, but goes
14 to zero if it provides neither.

15 Q. That's fine. And what you are proposing
16 in this arbitration is that a hundred percent of those
17 joint costs be allocated to the low frequency portion
18 of the loop and zero to the high frequency portion; is
19 that right?

20 A. I propose that the existing allocation of
21 assigning one hundred percent of those costs to local
22 exchange voice grade services persist because the FCC

1 has said that that is a reasonable allocation for
2 these purposes and because, otherwise, we would be
3 allocating more than one hundred percent of the loop
4 costs if we did not go back and change other prices
5 that were designed to recover those loop costs.

6 Q. So in your view it's reasonable to
7 allocate a hundred percent of those joint costs to the
8 low frequency portion and zero percent to the high
9 frequency portion?

10 A. Yes, just as it is reasonable to assign a
11 hundred percent of the cost to POTTS service and zero
12 percent of the costs to interstate access services
13 when we put the carrier common line charge to zero
14 because it doesn't cause any fixed loop cost to be
15 incurred.

16 Q. Let me ask you a hypothetical. Are you
17 familiar that Covad has entered into an agreement with
18 ICG to develop what's called Voice-over DSL?

19 A. No.

20 Q. Have you ever heard of the term
21 "Voice-over DSL"?

22 A. Yes.

1 Q. You are aware that it's a technology
2 that's being tested today?

3 A. Yes.

4 Q. Let's assume that Covad or Rhythms begins
5 to employ Voice-over DSL.

6 A. I have that assumption.

7 Q. And we are in a line-sharing situation,
8 and as a result the low frequency portion of the loop
9 becomes used for only the follow purposes,
10 emergency-type 9-1-1 purposes and Lifeline purposes.
11 Why don't you assume that?

12 A. I will make that assumption however
13 implausible it seems. But if you want this for
14 purposes of your hypothetical, I will.

15 Q. If that were to occur, would you agree
16 that allocating a hundred percent of the joint costs
17 to the low frequency portion of the loop and zero
18 percent to the high frequency portion would no longer
19 be reasonable?

20 A. I would say from an economist's
21 standpoint that it is reasonable to allocate one
22 hundred percent of the cost of the loop to the

1 function of providing access to the local exchange
2 network. Now, if in your definition, having the
3 E9-1-1 access and so on is the access to the local
4 network and everything else doesn't change the price
5 of the loop, there is no other reasonable allocation
6 unless you are willing to do individual
7 subscriber-based differential pricing. Because,
8 otherwise, you have to offer a different price for all
9 of those services. The customers will only get E9 -1-1
10 access and so on versus customers who take that, plus
11 toll, that plus toll plus DSL, a whole array of
12 services. If you are not going to make subscribers
13 pay for more than a hundred percent of the loop they
14 use, that is the only reasonable allocation, yes.

15 Q. Let's go back for a second to the subject
16 that I asked you a couple questions about in terms of
17 having a level competitive playing field between AADS,
18 Ameritech Illinois' advanced services affiliate and
19 non-affiliated providers of DSL services. I think in
20 response to my question one of the answers that you
21 gave as to why you didn't think there was a
22 competitive playing field was because of -- and I

1 think you focused on the parent, the ultimate parent,
2 SBC, earning a greater return than the unaffiliated
3 DSL provider could?

4 A. Either earning a greater return or for
5 the same return AADS being able to offer DSL services
6 at what, to the affiliate would be a loss, but not a
7 loss to the parent itself.

8 Q. Let's focus on that first scenario of SBC
9 earning a greater return compared to an unaffiliated
10 DSL provider. I am going to ask you another
11 hypothetical. Let's assume that Covad buys an entity
12 that provides ISP service.

13 A. I have that assumption in mind.

14 Q. It doesn't have to be called Blue Star,
15 but an entity that provides ISP service. And let's
16 assume that that ISP service is highly profitable.

17 A. I have that assumption in mind, also.

18 Q. Would you agree that it would be fair to
19 compare the return that Covad is able to earn on all
20 of its services with SBC's return on the provision of
21 advanced services?

22 A. No, I would not. Covad does not control

1 any bottleneck monopoly inputs. The return that I am
2 concerned about is the return on bottleneck monopoly
3 inputs.

4 Q. So in your view when you are comparing or
5 when you are establishing a level playing field, when
6 you are talking about an incumbent LEC, you look to
7 the parent's potential return. When you are talking
8 about a competitor, you don't look to any parent
9 potential return; is that fair?

10 A. No, that is not fair. I look to the
11 return to either corporation total from a bottleneck
12 monopoly input because that is from an economist's
13 standpoint what makes a difference to the effective
14 competition in the marketplace.

15 MR. BINNIG: Your Honor, I have no further
16 questions at this time.

17 EXAMINER WOODS: Mr. Reed?

18 MR. REED: Ms. Murray, I have been doing this
19 a long time.

20 THE WITNESS: That makes two of us.

21 MR. REED: I could tell. And there is no way
22 on this earth I'm going to -- I could probably go

1 somewhere with a question, but I'm just afraid of the
2 answer I'm going to get. So I have no cross.

3 THE WITNESS: Fair enough, sir.

4 MR. REED: Thank you very much.

5 EXAMINER WOODS: Any redirect?

6 MR. BOWEN: Can I have a moment, Your Honor?

7 EXAMINER WOODS: Sure.

8 (Whereupon the hearing was in a
9 brief recess.)

10 EXAMINER WOODS: Back on the record.

11 REDIRECT EXAMINATION

12 BY MR. BOWEN:

13 Q. Ms. Murray, just a few on redirect. Do
14 you recall cross from counsel from Ameritech on the
15 references in your cost analysis to the HAI model and
16 in particular to the ACF?

17 A. Yes.

18 Q. What does ACF stand for?

19 A. Annual Cost or Annual Charge Factor.

20 Q. And I think you characterized the use of
21 a portion of the Hatfield data as minor. Could you
22 explain what you mean by that?

1 A. Yes. All that we have done is use a
2 formula that's in that model. It's very common in
3 cost modeling, and it simply is used to convert a
4 dollar value of investment into an annual cost to
5 recover that investment given a particular
6 depreciation life and a particular cost of money. The
7 formula is very commonly used, not particularly
8 controversial. But because Ameritech's cost studies
9 are proprietary, I didn't want to use the formula from
10 their studies.

11 Q. Can you explain what you meant by your
12 reference to the FCC's universal service cost
13 analysis?

14 A. Yes. The FCC has adopted a model for
15 purposes of calculating the universal service costs.
16 It is a publicly available model. It is a model that
17 currently can be downloaded from the FCC website, and
18 it has a formula for an annual charge factor that is
19 virtually identical to the one in the HAI model.

20 Q. You gave an answer that I just have to
21 follow up on. In response to Mr. Binnig when he asked
22 does the Act make any reference to retail rates with

1 respect to the appropriate cost and for TELRIC, and
2 you wouldn't agree that it didn't, can you explain
3 what you meant by that answer in the line-sharing
4 context?

5 A. The FCC, and I believe I in subsequent
6 questions and answers read a portion of the Line
7 Sharing Order, the FCC has specifically found that its
8 TELRIC pricing rules are consistent with a zero price.
9 And in the discussion of the Line Sharing Order, a
10 part of the rationale for that is taking into account
11 the allocation of the remaining loop cost to retail
12 purposes.

13 Q. And do you recall cross from Mr. Binnig
14 about the existence of other types of broadband
15 services including cable modems and wireless broadband
16 services?

17 A. Yes.

18 Q. And do you recall him asking a question
19 as to whether or not providers of those services gave
20 them away, as he put it?

21 A. Yes.

22 Q. Do you have an opinion as to whether or

1 not pricing of line-shared service above zero would
2 have any beneficial effect on investment in those
3 other kinds of technologies?

4 A. My opinion on that, as described in my
5 supplemental verified statement, is that it would have
6 a negative effect. If you price something at a price
7 that reflects a cost that doesn't exist, you encourage
8 inefficient investment in facilities, not efficient
9 investment in facilities. The correct competitive
10 outcome is for each of these technologies to compete
11 based on the real incremental costs that using those
12 technologies causes. If it is in fact the case that
13 it's more efficient to offer advanced services in a
14 line-shared mode, as we do with DSL in a line-sharing
15 mode, then that should be the outcome of that, that
16 would be the outcome in the competitive market.
17 Again, there are a number of quotations from the
18 incumbent's retail federal filings that emphasize this
19 point, and I won't belabor that now.

20 Q. Now, if a carrier were to purchase a
21 network element at TELRIC and the TELRIC is zero, is
22 it your opinion that that carrier would be gaining an

1 unfair competitive advantages over other carriers?

2 A. No. As long as the carrier pays prices
3 that recover all of the costs that the carrier causes
4 the incumbent to incur, there is no subsidy and no
5 unfair advantage.

6 Q. Now, at least once, and perhaps more in
7 response to Mr. Binnig's questions, you referenced a
8 subscriber paying more than a hundred percent of the
9 cost of the loop. Can you explain what you mean by
10 that?

11 A. Yes. Right now I am an Ameritech
12 Illinois subscriber to voice grade services. My
13 understanding of the retail pricing in this state is
14 that the prices were designed and approved by this
15 Commission to be just and reasonable based on the
16 costs. And as we have heard extensively in testimony
17 from counsel, if nobody else, Ameritech -- neither
18 Ameritech nor its affiliate provided line-sharing
19 before so, obviously, none of those costs were being
20 allocated to the high frequency portion of the loop.

21 So now you have subscribers who have been
22 paying on average for a hundred percent of the costs

1 of the loop that they use. And if we go out without
2 reducing any of those retail rates and add a 50
3 percent charge to be recovered through the
4 line-sharing, then if they buy DSL, they are going to
5 be -- those subscribers who buy DSL will be paying for
6 150 of their loops. That's not fair.

7 Q. And then a final area, as Mr. Binnig was
8 walking you through Paragraphs 91 and 02 of the Line
9 Sharing Order, let me just ask if you have those up
10 there with you?

11 A. Yes, I do.

12 Q. And also keep in mind, please, your
13 discussion with Mr. Binnig concerning the section of
14 the FCC's actual rules. I think I wrote your answer
15 down correctly in part. You said that the existence
16 of fiber-fed DLC configurations in SBC's service
17 territory where SBC now can place a DSLAM on the line
18 card in the RT, I think your words were changes the
19 whole ball game. Do you recall that answer?

20 A. Yes.

21 Q. Referencing again Paragraphs 91 and 92 in
22 the Line Sharing Order, can you explain what you mean

1 by that statement?

2 A. Yes. If you look at the portion of
3 Paragraph 91 to which counsel for Ameritech pointed
4 me, there is a discussion of the subloop unbundling
5 rules allowing access to copper wire relatively close
6 to the subscriber which is critical for a competitive
7 carrier to offer services using xDSL technology over
8 the high frequency network element. The problem is,
9 what that would allow is for a carrier such as Covad
10 or Rhythms to collocate a standalone DSLAM at a remote
11 terminal. Remote terminals typically serve only a few
12 hundred subscribers. Of those few hundred
13 subscribers, some percentage, certainly less than
14 half, this day and age, are going to be taking DSL
15 services. Of that less than half, an individual
16 carrier such as Covad or Rhythms is only going to win
17 a certain percentage of the market.

18 Let's assume for at least initial
19 purposes we are talking about their winning 10, 20
20 customers per remote terminal, actually a pretty
21 decent result for a new entrant into the market. A
22 DSLAM is a piece of equipment designed to serve many,

1 many more customers than that. So Covad or Rhythms
2 would have a cost profile where it had to place a
3 standalone piece of equipment designed to serve
4 hundreds, thousands or more customers perhaps, whereas
5 Ameritech's data affiliate, AADS, because it would be
6 able to use this DSLAM that's built onto a line card
7 that right now can be down to the level of the DSLAM
8 for two to four customers per card, has a unitized
9 cost that allows it very cost effectively to serve a
10 small handful of customers at the RT.

11 If the only kind of collocation or
12 competition available to Covad and Rhythms is to use
13 the subloop unbundling and to place a stand-alone
14 DSLAM at the RT, that's not the same terms and
15 conditions on which AADS is going to be able to
16 compete on the Project Pronto architecture. The FCC
17 did not have that before it in either the remand
18 proceeding or in the line-sharing proceeding. And
19 that's why I said it's changed the whole ball game.
20 We are talking about a completely different
21 technological profile now.

22 The UNE Remand Order, though, does

1 address this in principle when it says you have to let
2 competitors collocate on the same terms and
3 conditions, collocate their DSLAMs on the same terms
4 and conditions. A DSLAM on the line card is the same
5 terms and conditions that AADS will experience.

6 MR. BOWEN: That's all I have. Thank you.

7 EXAMINER WOODS: So is that what you are
8 asking for in this arbitration order, the ability to
9 collocate with a DSLAM on a line card?

10 THE WITNESS: That is part of what we propose
11 as one of the options. We are not ruling out the
12 option -- I propose the entire menu. We are not
13 ruling out the option of placing a stand-alone DSLAM
14 and using subloop unbundling, but we certainly want
15 the option of using this new technology that is more
16 cost effective.

17 EXAMINER WOODS: Mr. Binnig?

18 MR. BINNIG: I do have some additional
19 questions.

20

21

22

RECROSS EXAMINATION

1 BY MR. BINNIG:

2 Q. Your response to Mr. Bowen's question
3 about the Hatfield model and the calculation of the
4 enroll charge factor, you mentioned two of the inputs
5 to that factor include depreciation life and cost of
6 money?

7 A. Yes.

8 Q. And the hat field model does not use
9 either the cost of money or the depreciation life that
10 the Illinois Commission uses in its TELRIC studies;
11 does it?

12 A. But we didn't use the depreciation life
13 or cost of money from the Hatfield model, necessarily.
14 My Exhibit 1.5 shows what inputs we used for that, the
15 depreciation lives and cost of money. We literally
16 used the formula and plugged in user adjustable
17 inputs. And we used a cost of money that was higher
18 than the one that was done in the Ameritech study, I
19 thought.

20 Q. With respect to Mr. Bowen's questions to
21 you about what he referred to as subscribers paying
22 more than a hundred percent of the loop, and I believe

1 you testified it was your understanding that retail
2 prices were set in Ameritech Illinois' rates to
3 recover a hundred percent of the loop costs; is that
4 right?

5 A. I believe my testimony is that they were
6 set to recover what this Commission has deemed to be
7 just and reasonable without any allocation of loop
8 cost to the high frequency portion of the loop.

9 Q. And you are aware, are you not, that
10 Ameritech Illinois' retail rates have been subject to
11 price cap regulation since 194?

12 A. I have heard that testimony, yes.

13 Q. And isn't the purpose of price cap
14 regulation to divorce prices from costs?

15 A. The purpose of price cap regulation
16 divorces specific service prices from changes in costs
17 but usually there is a start-up revenue requirement
18 where prices and costs were linked. And the theory of
19 price caps is that, if anything, the efficiency
20 incentive should drive the service specific costs
21 lower than what the revenues allowed were. So I don't
22 think you can say that it's totally delineated or else

1 you couldn't make a finding of just and reasonable
2 return.

3 Q. Is it your understanding that there has
4 been any rate of return analysis of Ameritech
5 Illinois' retail rates since price cap regulation was
6 adopted?

7 A. I have no knowledge one way or the other.

8 Q. So you don't know in fact whether retail
9 prices today in fact recover the full price of the
10 loop?

11 A. Only to the extent that, independent of
12 price caps, I believe there are price floors based on
13 the long run service incremental cost or LRSIC
14 methodology, and that would be the relevant costs that
15 we are talking about here. So if the prices are not
16 recovering costs from that standpoint, Ameritech would
17 be impermissibly falling below its price floors, as I
18 understand that. And that would be considered
19 anti-competitive separate and apart from price cap
20 rules.

21 Q. Don't LRSIC floors apply only to
22 competitive services in Illinois?

1 A. I believe that is correct. For the
2 non-competitive services such as residential services,
3 to the extent there is a shortfall, you would be
4 talking more about universal service than the LRSIC
5 rules.

6 Q. And with respect to the loop costs that
7 are at issue here, aren't we really talking about --
8 you don't deny that there are costs associated with
9 the provisioning of a loop facility; is that correct?

10 A. I certainly recognize that there are
11 costs associated with provisioning loops, yes.

12 Q. So what we are really talking about is
13 the allocation of the cost of that facility when it is
14 shared between two services, aren't we?

15 A. We need to be a little bit careful about
16 the use of the term "provisioning." Usually,
17 provisioning costs refer to the kind of costs that we
18 are talking about in the non-recurring cost context,
19 like placement and removal of jumpers. And we have
20 got separate costs and prices for that in this
21 arbitration.

22 Q. Let's talk about the recurring costs so

1 we are clear. Aren't we really talking about the
2 proper way to allocate those recurring costs between
3 two services sharing the same facility?

4 A. That's certainly what Ameritech has put
5 on the table, a proposed allocation that would lead to
6 150 percent recovery.

7 Q. What Ameritech has proposed is allocating
8 50 percent of that cost to the HFPL; is that correct?

9 A. Yes, and not reducing any of the services
10 that previously recovered that 50 percent.

11 Q. And what Rhythms and Covad are proposing
12 is allocating a hundred percent of that cost to the
13 low frequency portion of the loop and none to the high
14 frequency portion; is that correct?

15 A. Yes, as has been the case in Illinois
16 historically.

17 Q. I think that's all I have. Oh, I do have
18 one more, Your Honor, sorry. You referred to a
19 collocation requirement in the UNE Remand Order, I
20 believe, in response to one of Mr. Bowen's questions.
21 Could you give me a specific cite to the UNE Remand
22 Order that you are talking about?

1 A. I am guilty of packing up that material,
2 but it is referred to in the beginning portion of my
3 verified statement and my direct statement in the
4 discussion of collocation at the remote terminal.

5 Q. Is that in the part of the testimony
6 that's been stricken or has been withdrawn?

7 A. No, it is not.

8 Q. Do you have a copy -- do you still have
9 or did you throw it away?

10 A. I just packed it up.

11 Q. I just wonder if you could give that cite
12 to me.

13 EXAMINER WOODS: Can that be provided
14 tomorrow?

15 MR. BINNIG: Sure, so long as we get this
16 cite, that's all.

17 THE WITNESS: That's easy. Sure.

18 EXAMINER WOODS: Mr. Reed, did you want to
19 ask anything on recross?

20 MR. REED: No, I learned my lessons well in
21 law school, Mr. Examiner.

22 EXAMINER WOODS: Let's go off the record.

1 (Whereupon there was then had
2 an off-the-record
3 discussion.)

4 EXAMINER WOODS: This cause is continued to
5 June 30 at 9:00 a.m.

6 (Whereupon the hearing in this
7 matter was continued until
8 June 30, 2000, at 9:00 a.m.
9 in Springfield, Illinois.)

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1 STATE OF ILLINOIS)
)SS
2 COUNTY OF SANGAMON)
 CASE NO.: 00-0312/0313
3 TITLE: COVAD COMMUNICATIONS COMPANY
 RHYTHMS LINKS, INC.
4

CERTIFICATE OF REPORTER

5 I, Carla J. Boehl, do hereby certify that I
6 am a court reporter contracted by Sullivan Reporting
7 Company of Chicago, Illinois; that I reported in
8 shorthand the evidence taken and proceedings had on
9 the hearing on the above-entitled case on the 29th day
10 of June, 2000; that the foregoing pages are a true and
11 correct transcript of my shorthand notes so taken as
12 aforesaid and contain all of the proceedings directed
13 by the Commission or other persons authorized by it to
14 conduct the said hearing to be so stenographically
15 reported.

16 Dated at Springfield, Illinois, on this 30th
17 day of June, A.D., 2000.

18

19

20 Certified Shorthand Reporter

21

22